

*The Law and Practice of*  
**INCOME TAX**

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*and*

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*revised by*

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**FIFTH EDITION**

**VOLUME II**

**1963**

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|                              |      |
|------------------------------|------|
| FIRST EDITION                | 1950 |
| SECOND EDITION               | 1952 |
| THIRD EDITION                | 1955 |
| FOURTH EDITION               | 1958 |
| REPRINTED                    | 1959 |
| SUPPLEMENT TO FOURTH EDITION | 1959 |
| FIFTH EDITION                | 1963 |

Price Rs 70  
(for Volumes I & II)



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**THE INDIAN INCOME-TAX ACT, 1922**

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| 35(5)               | 155(1)                                     | 46(3) & (4)        | 226(5)                                   |
| 35(6)               | 155(3)                                     | 46(5)              | 226(2)                                   |
| 35(7)               | 155(7)                                     | 46(5A)             | 228(3)                                   |
| 35(8)               | 155(2)                                     | 46(6)              | 227                                      |
| 35(9)               | —                                          | 46(7)              | 231                                      |
| 35(11)              | 155(5)                                     | 46(7), Expln       | 231, Expln 2,<br>222(2), 226(1)<br>& 232 |
| 35(11), Expln       | 33(3) (a)                                  |                    |                                          |
| 37(1)               | 131(1) & 255(6)                            |                    |                                          |
| 37(2)               | 132                                        | 46(7A)             | 2(44)                                    |
| 37(3)               | 131(3) & 255(6)                            | 46(8)              | 228(1)                                   |
| 37(4)               | 136 & 255(6)                               | 46(9)              | 228(2)                                   |
| 38                  | 133                                        | 46(10)             | 228(3)                                   |
| 39                  | 134                                        | 46A                | 230                                      |
| 40(1)               | 160(1) (ii) & 161                          | 47                 | 229                                      |
| 40(2)               | 160(1) (i), 161 &<br>163(1) (d)            | 48(1)<br>48(2)     | 237<br>240                               |
| 41(1),<br>main para | 160(1) (iii) &<br>(iv) and 161             | 48(3)<br>48(4)     | 238(1)<br>242                            |
| 41(1), 1st prov     | 164                                        | 49A                | 90                                       |
| 41(1), 2nd prov     | 165                                        | 49B                | 235                                      |
| 41(2)               | 166                                        | 49BB               | 236                                      |
| 42(1), main para    | 9(1)(i), 160(1)<br>(i) & (2), 161<br>& 166 | 49D<br>49E<br>49EE | 91<br>245<br>—                           |
| 42(1), 1st prov     | 173                                        | 49F                | 238(2)                                   |
| 42(1), 2nd prov     | 162(2)                                     | 50                 | 239(2)                                   |
| 42(1), 3rd prov     | 162(3)                                     | 51                 | 276                                      |
| 42(2)               | 92                                         | 52                 | 277                                      |
| 42(3)               | 9(1) (i),<br>Expln (a)                     | 53                 | 279                                      |
| 43                  | 163                                        | 54                 | 137 & 280                                |
| 44                  | 177 & 189                                  | 55, main para      | 95(1)                                    |
| 44A, 44B & 44C      | 172                                        | 55, 1st prov       | 95(3)                                    |

| 1922 Act         | 1961 Act                                     | 1922 Act             | 1961 Act          |
|------------------|----------------------------------------------|----------------------|-------------------|
| 59B              | 138                                          | 66(8)                | 269               |
| 60(1)            | —                                            | 66A(1)               | 259               |
| 60(2)            | 89(1) & 103                                  | 66A(2)               | 261               |
| 60(3)            | —                                            | 66A(3) & 1st<br>prov | 262(1)            |
| 60A              | —                                            | 66A(3), 2nd prov     | 266               |
| 60B              | 4(1), prov, 4(2),<br>95(1), prov,<br>& 95(2) | 66A(4)               | 262(3)            |
| 61               | 288                                          | 67                   | 293               |
| 62               | 289                                          | 67A                  | 268               |
| 63               | 282                                          | 67B                  | 294               |
| 64(1) to (4)     | 124                                          | Schedule             | 1st Schedule      |
| 64(5)            | —                                            | r 1                  | r 1               |
| 65               | 290                                          | r 2                  | r 2               |
| 66(1) & (2)      | 256                                          | r 3                  | r 3               |
| 66(3)            | —                                            | r 4                  | r 4               |
| 66(4)            | 258                                          | r 5                  | 3(1) (g) &<br>r 7 |
| 66(5)            | 260(1)                                       | r 6                  | r. 5              |
| 66(6)            | 260(2)                                       | r 7                  | —                 |
| 66(7), main para | 265                                          | r 8                  | r 6               |
| 66(7), prov      | —                                            | r 9                  | 44                |
| 66(7A)           | —                                            |                      |                   |

| 1961 Act            | 1922 Act                         | 1961 Act         | 1922 Act          |
|---------------------|----------------------------------|------------------|-------------------|
| 9(1) (i), Expln (a) | 42(3)                            | 10(21)           | 4(3) (xiii)       |
| 9(1) (i), Expln (b) | —                                | 10(22)           | —                 |
| 9(1) (ii)           | 4(1), Expln 2                    | 10(23)           | 4(3) (ii-a)       |
| 9(1) (iii)          | 4(1), Expln 2A                   | 10(24)           | 4(3) (xi-a)       |
| 9(1) (iv)           | 4(1), Expln 3                    | 10(25) (i)       | 4(3) (iv)         |
| 9(2)                | 4(1), Expln 2                    | 10(25) (ii)      | 4(3) (ix)         |
| 10(1)               | 4(3) (viii)                      | 10(25) (iii)     | 58R               |
| 10(2)               | 14(1)                            | 10(26)           | 4(3) (xxi)        |
| 10(3)               | 4(3) (vii)                       | 11               | 4(3) (i)          |
| 10(4)               | 4(3) (xvi)                       | 12               | 4(3) (ii)         |
| 10(5)               | 4(3) (vi-a) (b)                  | 13(a)            | 4(3), last para   |
| 10(6) (i)           | 4(3) (vi-a) (a)                  | 13(b)            | —                 |
| 10(6) (ii)          | 4(3) (x) (b)                     | 14               | 6                 |
| 10(6) (iii)         | 4(3) (x) (c)                     | 15               | 7(1)              |
| 10(6) (iv)          | 4(3) (x) (d)                     | 16               | 7(2)              |
| 10(6) (v)           | 4(3) (x) (e)                     | 17(1) (i) to (v) | 7(1)              |
| 10(6) (vi)          | 4(3) (xiv)                       | 17(1) (vi)       | 58E               |
| 10(6) (vii)         | 4(3) (xiv-a)                     | 17(1) (vii)      | 58J (3)           |
| 10(6) (viii)        | 4(3) (xiv-b)                     | 17(2)            | 7(1), Expln 1     |
| 10(7)               | 4(3) (x-a)                       | 17(3)            | 7(1), Expln 2     |
| 10(8) & (9)         | 4(3) (xv)                        | 18               | 8                 |
| 10(10) & (11)       | 7(1), Expln 2,<br>prov           | 19               | 8, 1st prov.      |
| 10(12)              | 7(1), Expln 2,<br>prov, & 58G(2) | 20               | 8, Expln          |
| 10(13)              | 7(1), Expln 2,<br>prov           | 21               | 8, 1st prov       |
| 10(14)              | 4(3) (vi)                        | 22               | 9(1)              |
| 10(15) (i)          | 4(3) (xvii)                      | 23               | 9(2)              |
| 10(15) (ii)         | 4(3) (xvii-a)                    | 24(1)            | 9(1) (i) to (vii) |
| 10(15) (iii)        | 4(3) (xviii)                     | 24(2)            | 9(2), 2nd prov    |
| 10(15) (iv)         | 4(3) (xvii-b)                    | 25               | 9(1) (iv), prov   |
| 10(16)              | —                                | 26               | 9(3)              |
| 10(17)              | 4(3) (xix)                       | 27(i)            | —                 |
| 10(18)              | 4(3) (xxii)                      | 27(ii)           | 9(4) (a)          |
| 10(19)              | 4(3) (x) (a)                     | 27(iii)          | 9(4) (b)          |
| 10(20)              | 4(3) (iii)                       | 27(iv)           | 9(1), Expln       |
|                     |                                  | 27(v)            | —                 |
|                     |                                  | 27(vi)           | 9(4) (c)          |
|                     |                                  | 28(i)            | 10(1)             |

| 1961 Act             | 1922 Act                                                        | 1961 Act               | 1922 Act                         |
|----------------------|-----------------------------------------------------------------|------------------------|----------------------------------|
| 28(ii)               | 10(5A)                                                          | 35(1) (i)              | 10(2) (xii)                      |
| 28(iii)              | 10(6)                                                           | 35(1) (ii) & (iii)     | 10(2) (xiii)                     |
| 28, Explan 1         | —                                                               | 35(1) (iv)             | 10(2) (xiv)                      |
| 28, Explan 2         | 24(1), Explan 1                                                 | 35(2) (i)              | 10(2) (xiv) &<br>1st prov        |
| 29                   | 10(2), opening<br>part                                          | 35(2) (ii)             | 10(2) (xiv), 2nd<br>prov, cl (a) |
| 30(a) (i)            | 10(2) (i) & (ii)                                                | 35(2) (iii)            | 10(2) (xiv), 2nd<br>prov, cl (b) |
| 30(a) (ii)           | 10(2) (v)                                                       | 35(2) (iv)             | 10(2) (xiv), 2nd<br>prov, cl (d) |
| 30(b)                | 10(2) (ix)                                                      | 35(2) (v)              | 10(2) (xiv), 2nd<br>prov, cl (e) |
| 30(c)                | 10(2) (iv)                                                      | 35(3)                  | 10(2) (xiv), 2nd<br>prov, cl (g) |
| 31(i)                | 10(2) (v)                                                       | 35(4)                  | 10(2) (xiv), 2nd<br>prov, cl (f) |
| 31(ii)               | 10(2) (iv)                                                      | 36(1) (i)              | 10(2) (iv)                       |
| 32(1) (i) & (ii)     | 10(2) (vi)                                                      | 36(1) (ii)             | 10(2) (x)                        |
| 32(1) (iii)          | 10(2) (vii) and<br>1st & 3rd<br>provs                           | 36(1) (iii)            | 10(2) (iii)                      |
| 32(1) (iv)           | 10(2) (vi), 3rd<br>para                                         | 36(1) (iii),<br>Explan | 10(2) (iii),<br>Explan           |
| 32(2)                | 10(2) (vi), prov.<br>(b)                                        | 36(1) (iv)             | 58R                              |
| 33(1)                | 10(2) (vi-b) &<br>2nd prov                                      | 36(1) (v)              | —                                |
| 33(2)                | 10(2) (vi-b),<br>Explan 1                                       | 36(1) (vi)             | 10(2) (viii)                     |
| 33(2), Explan        | 10(2) (vi-b),<br>Explan 2                                       | 36(1) (vii)            | 10(2) (xi)                       |
| 33(3)                | 10(2) (vi-c) (i) &<br>Explan to 35(11)                          | 36(1) (viii)           | 10(2) (xiv-a)                    |
| 33(4)                | 10(2) (vi-c) (ii)                                               | 36(2)                  | 10(2) (xi)                       |
| 34(1)                | 10(2) (vi), prov<br>(a), & 10(2)<br>(vi-b), 1st<br>prov, cl (a) | 37(1)                  | 10(2) (xv)                       |
| 34(2) (i)            | 10(2) (vi), prov.<br>(c)                                        | 37(2)                  | 10(2) (xv), prov                 |
| 34(2) (i),<br>Explan | 12B(1), 2nd<br>prov                                             | 38(1) (a)              | 10(2) (i) & (ii)                 |
| 34(2) (ii)           | 10(4B)                                                          | 38(1) (b)              | 10(2) (ix)                       |
| 34(3)                | 10(2) (vi-b), 1st<br>prov, cl (b)                               | 38(2)                  | 10(3)                            |
|                      |                                                                 | 39                     | 12A                              |
|                      |                                                                 | 40(a) (i)              | 10(2) (iii), prov                |
|                      |                                                                 | 40(a) (ii)             | 10(4)                            |
|                      |                                                                 | 40(a) (iii)            | 10(4) (a)                        |
|                      |                                                                 | 40(a) (iv)             | 10(4) (c)                        |

| 1961 Act         | 1922 Act                                   | 1961 Act           | 1922 Act                           |
|------------------|--------------------------------------------|--------------------|------------------------------------|
| 40(b)            | 10(2) (iii), prov ,<br>& 10(4) (b)         | 44                 | 10(?) & r 9 of<br>Sch              |
| 40(c) (i) & (ii) | 10(4A)                                     | 45                 | 12B(1)                             |
| 40(c) (iii)      | —                                          | 46                 | —                                  |
| 40(d)            | 8, Expln                                   | 47(i)              | 12B(1), 1st prov.                  |
| 41(1)            | 10(2A)                                     | 47(ii)             | —                                  |
| 41(2)            | 10(2) (vii), 2nd<br>& 4th provs            | 47(iii)            | 12B(1), 1st prov                   |
| 41(2), prov      | 10(2) (vii), 5th<br>prov                   | 47(iv)             | 12B(1), 2nd<br>prov                |
| 41(3)            | 10(2) (xiv), 2nd<br>prov , cl (c)          | 48                 | 12B(2)                             |
| 41(4)            | 10(2) (xi), prov                           | 49                 | 12B(1), 2nd<br>prov , & 12B<br>(3) |
| 41(5)            | —                                          | 50                 | 12B(2), 2nd &<br>3rd provs         |
| 42               | 10(2AA)                                    | 51                 | 12B(2), 4th prov                   |
| 43(1)            | 10(5), Expln                               | 52                 | 12B(2), 1st prov                   |
| 43(1), Expln 1   | 10(2) (xiv), 2nd<br>prov , cl (e)          | 53                 | 12B(4) (a)                         |
| 43(1), Expln 2   | 10(5) (c)                                  | 54                 | 12B(4) (b)                         |
| 43(1), Expln 3   | 10(5) (a), 1st<br>prov                     | 55(1) (a)          | 12B(2), 2nd &<br>3rd provs         |
| 43(1), Expln 4   | 10(5) (a), 2nd<br>prov                     | 55(1) (b)          | 12B(2) (ii)                        |
| 43(1), Expln 5   | 1st prov after<br>10(5) (b)                | 55(2) (i)          | 12B(2), 3rd<br>prov                |
| 43(1), Expln 6   | 12B(1), 2nd<br>prov                        | 55(2) (ii)         | 12B(3)                             |
| 43(2)            | 10(5)                                      | 55(2) (iii)        | —                                  |
| 43(3)            | 10(5)                                      | 55(3)              | 12B(3)                             |
| 43(4)            | Expln to 10(2)<br>(xii), (xiii) &<br>(xiv) | 56(1)              | 12(1)                              |
| 43(5)            | 24(1), Expln 2                             | 56(2) (i)          | 12(1A)                             |
| 43(6) (a)        | 10(5) (a)                                  | 56(2) (ii) & (iii) | —                                  |
| 43(6) (b)        | 10(5) (b)                                  | 57(i)              | 12(2)                              |
| 43(6), Expln 1   | 2nd prov after<br>10(5) (b)                | 57(ii)             | 12(3) & (4)                        |
| 43(6), Expln 2   | 12B(1), 2nd<br>prov                        | 57(iii)            | 12(2)                              |
| 43(6), Expln 3   | 10(5), Expln                               | 58(a)              | 12(2), prov                        |
|                  |                                            | 58(b)              | 12(5)                              |
|                  |                                            | 59(1)              | 12(5)                              |
|                  |                                            | 59(2)              | —                                  |
|                  |                                            | 60                 | 16(1) (c)                          |

| 1961 Act  | 1922 Act                            | 1961 Act    | 1922 Act                   |
|-----------|-------------------------------------|-------------|----------------------------|
| 61        | 16(1) (c)                           | 81          | 14(3)                      |
| 62        | 16(1) (c), 3rd prov                 | 82          | 14(4)                      |
| 63(a)     | 16(1) (c), 1st prov                 | 83          | 14(5)                      |
| 63(b)     | 16(1) (c), 2nd prov                 | 84          | 15C(1) to (3) & (5) to (7) |
| 64        | 16(3)                               | 85          | 15C(4)                     |
| 65        | —                                   | 86(i)       | 8, 2nd prov                |
| 66        | 16(1) (a)                           | 86(ii)      | 8, 3rd prov                |
| 67(1)     | 16(1) (b)                           | 86(iii)     | 14(2) (a)                  |
| 67(2)     | —                                   | 86(iv)      | 14(2) (aa)                 |
| 67(3)     | —                                   | 86(v)       | 14(2) (b)                  |
| 67(4)     | 16(1) (b), prov , & 24(1), 2nd prov | 87(1) (a)   | 15(1) & 17(2)              |
| 68        | —                                   | 87(1) (b)   | 15(2) & 17(2)              |
| 69        | —                                   | 87(1) (c)   | 7(1), 1st prov , & 17(2)   |
| 70        | —                                   | 87(1) (d)   | 58F                        |
| 71        | 24(1) & (2A)                        | 87(1) (e)   | 58R                        |
| 72(1)     | 24(2) (ii) & (iii)                  | 87(1) (f)   | —                          |
| 72(2)     | 24(2), prov (b)                     | 87(2)       | 15(2A)                     |
| 72(3)     | 24(2) (iii)                         | 87(3)       | 15(3)                      |
| 73(1)     | 24(1), 1st prov                     | 88          | 15B & 17(2)                |
| 73(2)     | 24(2) (i) & (iii)                   | 89          | 60(2)                      |
| 73(3)     | 24(2), prov (b)                     | 90          | 49A                        |
| 73(4)     | 24(2) (iii)                         | 91          | 49D                        |
| 74        | 24(2A) & (2B)                       | 92          | 42(2)                      |
| 75        | 24(1), 2nd prov , & 24(2), prov (c) | 93          | 44D                        |
| 76        | 24(2), prov (d)                     | 94          | 44E & 44F                  |
| 77(1)     | 24(1), 2nd prov                     | 95(1)       | 55                         |
| 77(2) (a) | 24(1), 2nd prov                     | 95(1), prov | 60B(1)                     |
| 77(2) (b) | 24(2), prov (c)                     | 95(2)       | 60B(2)                     |
| 78        | 24(2), prov (e)                     | 95(3)       | 55, 1st prov               |
| 79        | —                                   | 96          | 56                         |
| 80        | 22(2A)                              | 97          | 58(1)                      |
|           |                                     | 98          | 44E & 44F                  |
|           |                                     | 99(1) (i)   | 55, 2nd prov               |
|           |                                     | 99(1) (ii)  | 55, 2nd prov               |
|           |                                     | 99(1) (iii) | 14(4)                      |

| 1961 Act           | 1922 Act              | 1961 Act     | 1922 Act                    |
|--------------------|-----------------------|--------------|-----------------------------|
| 99(1) (iv)         | 56A                   | 124(5)       | 64(3), 2nd prov             |
| 99(1) (v)          | 14(3)                 | 124(6)       | 64(3), 3rd prov             |
| 99(2)              | 14(5)                 | 124(7)       | 64(4)                       |
| 100                | 15B & 17(3)           | 125(1) & (2) | 5(5)                        |
| 101                | 15C & 17(3)           | 125(3)       | —                           |
| 102                | 14(2) (aa) &<br>17(3) | 126          | 5(6)                        |
| 103                | 60(2)                 | 127          | 5(7A)                       |
| 104                | 23A(1)                | 127, Expln   | 5, Expln                    |
| 105 (with 109(ii)) | 23A(2)                | 128          | 5(5A)                       |
| 106                | —                     | 129          | 5(7C) & 1st<br>prov         |
| 107                | 23A(8)                | 130          | —                           |
| 108                | 23A(9)                | 131(1)       | 37(1)                       |
| 109(i)             | 23A(1)                | 131(2)       | —                           |
| 109(ii)            | 23A, Expln 2          | 131(3)       | 37(3)                       |
| 110                | 17(2) & (3)           | 132          | 37(2)                       |
| 111                | 58G                   | 133          | 38                          |
| 112                | 10(5A)                | 134          | 39                          |
| 113                | 17(1) & (1A)          | 135          | 5(7B)                       |
| 114                | 17(6)                 | 136          | 37(4)                       |
| 115                | 17(7)                 | 137          | 54                          |
| 116                | 5(1)                  | 138          | 59B                         |
| 117(1)             | 5(1A) to (3)          | 139(1)       | —                           |
| 117(2)             | 5(3)                  | 139(1A)      | —                           |
| 117(3)             | 5(3A)                 | 139(2)       | 22(2)                       |
| 118(1)             | 5(7) (i)              | 139(3)       | 22(2A)                      |
| 118(2)             | 5(7) (ii)             | 139(4)       | 22(3)                       |
| 118(3)             | 5(5A)                 | 139(5)       | 22(3)                       |
| 119(1)             | 5(8)                  | 139(6)       | 22(5)                       |
| 119(2)             | 5(7B)                 | 139(7) & (8) | —                           |
| 120                | 5(1A)                 | 140          | —                           |
| 121                | 5(2)                  | 141          | 23B(1) to (4),<br>(7) & (8) |
| 122                | 5(4)                  | 141A         | —                           |
| 123                | 5(5)                  | 142          | 22(4)                       |
| 124(1) & (2)       | 5(5)                  | 143          | 23(1) to (3)                |
| 124(3)             | 64(1) & (2)           | 144          | 23(4)                       |
| 124(4)             | 64(3)                 | 145          | 13                          |



| 1961 Act            | 1922 Act                     | 1961 Act     | 1922 Act         |
|---------------------|------------------------------|--------------|------------------|
| 146                 | 27                           | 165          | 41(1), 2nd prov. |
| 147                 | 34(1) & Explan               | 166          | 41(2) & 42(1)    |
| 148                 | 34(1)                        | 167          | —                |
| 149                 | 34(1), 1st & 2nd<br>provs    | 168          | —                |
| 150                 | 34(3), 2nd prov              | 169          | —                |
| 151                 | 34(1), 1st prov,<br>cl (iii) | 170(1)       | 26(2)            |
| 152(1)              | 34(1), 3rd prov              | 170(2) & (3) | 26(2), prov      |
| 152(2)              | 34(2)                        | 170(4)       | 25A(2)           |
| 153                 | 34(3)                        | 171          | 25A              |
| 153, Explan 1       | 5(7C), 2nd prov              | 172          | 44A, 44B & 44C   |
| 153, Explan 2 & 3   | —                            | 173          | 42(1), 1st prov. |
| 154                 | 35(1), (3) & (4)             | 174          | 24A              |
| 155(1)              | 35(5)                        | 175          | —                |
| 155(2)              | 35(8)                        | 176(1)       | 25(1)            |
| 155(3)              | 35(6)                        | 176(2)       | —                |
| 155(4)              | —                            | 176(3)       | 25(2)            |
| 155(5)              | 35(11)                       | 176(4)       | —                |
| 155(6)              | —                            | 176(5)       | 25(6)            |
| 155(7)              | 35(7)                        | 176(6)       | 25(1)            |
| 155(8)              | —                            | 176(7)       | —                |
| 156                 | 29                           | 177          | 44               |
| 157                 | 24(3)                        | 178          | —                |
| 158                 | 23(6)                        | 179          | —                |
| 159                 | 24B                          | 180          | 12AA             |
| 160(1) (i)          | 40(2) & 42(1)                | 181          | 8, 3rd prov      |
| 160(1) (ii)         | 40(1)                        | 182          | 23(5) (a)        |
| 160(1) (iii) & (iv) | 41(1)                        | 183          | 23(5) (b)        |
| 160(2)              | 42(1)                        | 184 to 186   | 26A & 23 (4)     |
| 161                 | 40, 41(1) & 42<br>(1)        | 187          | 26(1)            |
| 162(1)              | —                            | 188          | 26(2)            |
| 162(2)              | 42(1), 2nd prov              | 189          | 44               |
| 162(3)              | 42(1), 3rd prov              | 190          | —                |
| 163                 | 40(2) & 43                   | 191(1)       | 19               |
| 164                 | 41(1), 1st prov.             | 191(2)       | 58(2)            |
|                     |                              | 192(1)       | 18(2)            |
|                     |                              | 192(2)       | 18(2B)           |
|                     |                              | 192(3)       | 18(2), prov      |

| 1961 Act     | 1922 Act                                                  | 1961 Act                  | 1922 Act       |
|--------------|-----------------------------------------------------------|---------------------------|----------------|
| 192(4)       | 58H                                                       | 211(2)                    | 18A(1) (b)     |
| 192(5)       | 58S(2)                                                    | 212(1)                    | 18A(2)         |
| 192(6)       | 18(2A)                                                    | 212(2)                    | 18A(2), prov   |
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# THE INDIAN INCOME-TAX ACT, 1922

ACT No. XI OF 1922<sup>1</sup>

[5th March, 1922]

*An Act to consolidate and amend the law relating to Income-tax and Super-tax*

WHEREAS it is expedient to consolidate and amend the law relating to Income-tax and Super-tax, it is hereby enacted as follows —

1. Short title, extent and commencement —(1) This Act may be called the Indian Income-tax Act, 1922

<sup>2</sup>[(2) It extends to the whole of India ]

(3) It shall come into force on the first day of April, 1922

2 Definitions —In this Act, unless there is anything repugnant in the subject or context,—

(1) “ agricultural income ” means—

(a) any rent or revenue derived from land which is used for agricultural purposes, and is either assessed to land-revenue in <sup>3</sup>[the taxable territories] or subject to a local rate assessed and collected by <sup>4</sup>[officers of the Government] as such,

(b) any income derived from such land by—

(i) agriculture, or

(ii) the performance by a cultivator or receiver of rent-in-kind of any process ordinarily employed by a cultivator or receiver of rent-in-kind to render the produce raised or received by him fit to be taken to market, or

(iii) the sale by a cultivator or receiver of rent-in-kind of the produce raised or received by him, in respect of which no process has been performed other than a process of the nature described in sub-clause (ii), (Rr 24)

(c) any income derived from any building owned and occupied by the receiver of the rent or revenue of any such land, or occupied by the cultivator, or the receiver of rent-in-kind, of any land with respect to which, or the produce of which, any operation mentioned in sub-clauses (ii) and (iii) of clause (b) is carried on

<sup>1</sup> For Statement of Objects and Reasons, see *Gazette of India*, 1921, Pt V, p 159, and for Report of Joint Committee, see *ibid*, 1922, Pt V, p 31

This Act has been declared in force in the district of Khondmals by s 3 and Schedule of the Khondmals Laws Regulation, 1936 (4 of 1936), and in the district of Angul by s 3 and Schedule of the Angul Laws Regulations, 1936 (5 of 1936) The Act has been extended to Berar by Act 4 of 1941

<sup>2</sup> Substituted by s 2 and Schedule of the Taxation Laws (Extension to Jammu and Kashmir) Act, 1954 (41 of 1954)

<sup>3</sup> Substituted for “ British India ” by the Adaptation of Laws Order, 1950

<sup>4</sup> Substituted for “ Officers of the Crown ”, *ibid* “ Officers of the Crown ” had been substituted for “ Officers of Government ” by the Government of India (Adaptation of Indian Laws) Order, 1937

Provided that the building is on or in the immediate vicinity of the land, and is a building which the receiver of the rent or revenue or the cultivator or the receiver of the rent-in-kind by reason of his connection with the land, requires as a dwelling-house, or as a store-house, or other out-building,

<sup>5</sup>[(2) "assessee" means a person by whom income-tax or any other sum of money is payable under this Act, and includes every person in respect of whom any proceeding under this Act has been taken for the assessment of his income or of the loss sustained by him or for the amount of refund due to him,]

(3) "[Appellate] Assistant Commissioner" means a person appointed to be an <sup>6</sup>[Appellate] Assistant Commissioner of Income-tax under section 5,

(3A) <sup>7</sup>\* \* \* \*

(4) "business" includes any trade, commerce, or manufacture or any adventure or concern in the nature of trade, commerce or manufacture,

<sup>8</sup>[(4A) "capital asset" means property of any kind <sup>9</sup>\* \* \* \* held by an assessee, whether or not connected with his business, profession or vocation, but does not include—

(i) any stock-in-trade, consumable stores or raw materials held for the purposes of his business, profession or vocation,

(ii) personal effects, that is to say, movable property (including wearing apparel, jewellery and furniture) held for personal use by the assessee or any member of his family dependent on him,

<sup>10</sup>[(iii) any land from which the income derived is agricultural income,]]

<sup>11</sup>[(4B) "the Central Board of Revenue" means the Central Board of Revenue constituted under the Central Board of Revenue Act, 1924 (IV of 1924),]

(5) "Commissioner" means a person appointed to be a Commissioner of Income tax under section 5,

<sup>5</sup> Substituted by s 2 of the Indian I T (Amendment) Act 1953 (25 of 1953), with effect from the 1st April, 1952

<sup>6</sup> Inserted by s 2 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>7</sup> Inserted by the India (Adaptation of Income tax, Profits Tax and Revenue Recovery Acts) Order, 1947 (G O 31), and omitted by the Adaptation of Laws Order, 1950

<sup>8</sup> Inserted by s 2 of the I T and E P T (Amendment) Act, 1947 (22 of 1947)

<sup>9</sup> "(Other than agricultural land)" omitted by s 2 of the I T and B P T (Amendment) Act, 1947 (44 of 1947) The amendment shall have effect in relation to all assessments to income tax or super tax for the year ending 31st March, 1948, and subsequent years

<sup>10</sup> Inserted, *ibid*

<sup>11</sup> Inserted by s 4 and Schedule of the Central Board of Revenue Act, 1924 (4 of 1924), and renumbered "(4B)" by s 2 of the I T and E P T (Amendment) Act, 1947 (22 of 1947)

<sup>12</sup>[<sup>13</sup>(5A)] "company" means—

D  
S.

- (i) any Indian company, or
- (ii) any association, whether incorporated or not and whether Indian or non-Indian, which is or was assessable or was assessed as a company for the assessment for the year ending on the 31st day of March, 1948, or which is declared by general or special order of the Central Board of Revenue to be a company for the purposes of this Act,]

<sup>14</sup>[(5B)] "co-operative society" means a co-operative society registered under the Co-operative Societies Act, 1912 (II of 1912), or under any other law for the time being in force in any State for the registration of co-operative societies,]

<sup>13</sup>[(6)] "Director of Inspection" means a person appointed to be a Director of Inspection under section 5, and includes a person appointed to be an Additional Director of Inspection, a Deputy Director of Inspection or an Assistant Director of Inspection,]

<sup>15</sup>[(6A)] "dividend" includes—

- (a) any distribution by a company of accumulated profits, whether capitalised or not, if such distribution entails the release by the company to its shareholders of all or any part of the assets of the company,
  - (b) any distribution by a company of debentures, <sup>16</sup>[debenture-stock or deposit certificates in any form, whether with or without interest], to the extent to which the company possesses accumulated profits, whether capitalised or not,
  - <sup>17</sup>[(c)] any distribution made to the shareholders of a company on its liquidation, to the extent to which the distribution is attributable to the accumulated profits of the company immediately before its liquidation, whether capitalised or not,]
- 18\*                      \*                      \*                      \*                      \*
- (d) any distribution by a company on the reduction of its capital to the extent to which the company possesses accumulated profits which arose after the end of the previous year ending next before the 1st day of April, 1933, whether such accumulated profits have been capitalised or not,
  - <sup>18</sup>[(e)] any payment by a company, not being a company in which the public are substantially interested within the meaning of section 23A, of any sum (whether as representing a part of the assets of the company or otherwise) by way of advance

<sup>12</sup> Substituted by s 8 of the Indian Finance Act, 1949 (14 of 1949) The new clause shall be deemed to be operative so as to apply in relation to all assessments subsequent to the assessment for the year ending on the 31st day of March, 1948, whether such assessments have, or have not, been made before the commencement of this Act

<sup>13</sup> Cl (6) was renumbered "(5A)", and the new cl (6) was inserted, by s 2 of the Indian I T (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952

<sup>14</sup> Inserted by s 3 of the Finance Act, 1955, with effect from the 1st April, 1955

<sup>15</sup> Inserted by s 2 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>16</sup> Substituted for "or debenture stock" by s 3 of the Finance Act, 1955, with effect from the 1st April, 1955

<sup>17</sup> Substituted by s 3 of the Finance Act, 1956, with effect from the 1st April, 1956

<sup>18</sup> The proviso was omitted by s 3 of the Finance Act, 1955, with effect from the 1st April, 1955

<sup>19</sup> Substituted for the original provisos, *ibid*, with effect from the 1st April, 1955

or loan to a shareholder or any payment by any such company on behalf or for the individual benefit of a shareholder, to the extent to which the company in either case possesses accumulated profits,

but "dividend" does not include—

- (i) a distribution made in accordance with sub-clause (c) or sub-clause (d) in respect of any share issued for full cash consideration where the holder of the share is not entitled in the event of liquidation to participate in the surplus assets,
- (ii) any advance or loan made to a shareholder by a company in the ordinary course of its business where the lending of money is a substantial part of the business of the company,
- (iii) any dividend paid by a company which is set off by the company against the whole or any part of any sum previously paid by it and treated as a dividend within the meaning of clause (e), to the extent to which it is so set off,

*Explanation*—The expression "accumulated profits", wherever it occurs in this clause, shall not include capital gains arising before the 1st day of April, 1946, or after the 31st day of March, 1948, <sup>20</sup>[and before the 1st day of April, 1958],]

<sup>21</sup>[(6A)] "earned income" means any income of an assessee who is an individual, Hindu undivided family, unregistered firm or other association of persons not being a company, a local authority, a registered firm or a firm <sup>22</sup>[assessed] under clause (b) of sub-section (5) of section 23—

- (a) which is chargeable under the head "Salaries", or
- (b) which is chargeable under the head "Profits and gains of business, profession or vocation" where the business, profession or vocation is carried on by the assessee or, in the case of a firm, where the assessee is a partner actively engaged in the conduct of the business, profession or vocation, or
- (c) which is chargeable under the head "Other sources" if it is immediately derived from personal exertion or represents a pension or superannuation or other allowance given to the assessee in respect of his past services or the past services of any deceased person,

and includes any such income which, though it is the income of another person, is included in the assessee's income under the provisions of this Act, but does not include any such income which is exempt from tax under sub-section (2) of section 14 or under a notification issued under section 60,]

<sup>23</sup>[(6B)] "firm", "partner" and "partnership" have the same meanings respectively as in the <sup>24</sup>[Indian Partnership Act, 1932 (IX of 1932)]]

<sup>20</sup> Inserted by s 2 of the Finance (No 3) Act, 1956, with effect from the 1st April, 1957

<sup>21</sup> Inserted by s 2 of Ordinance No 9 of 1945

<sup>22</sup> Substituted for "treated as registered" by s 3 of the Finance Act, 1956, with effect from the 1st April, 1956

<sup>23</sup> Inserted as cl (6A) by s 2 of the Indian I T (Amendment) Act, 1930 (21 of 1930), and renumbered "(6B)" by s 2 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>24</sup> Substituted for "Indian Contract Act, 1872", *ibid* (7 of 1939)

<sup>1</sup>[provided that the expression "partner" includes any person who being a minor has been admitted to the benefits of partnership,] S.

<sup>2</sup>[(6C) "income" includes—

- (i) dividend,
- (ii) the value of any perquisite or profit in lieu of salary taxable under section 7,
- (iii) the value of any benefit or perquisite, whether convertible into money or not, obtained from a company either by a director or by any other person who has a substantial interest in the company (that is to say, who is concerned in the management of the business of the company, being the beneficial owner of shares, not being shares entitled to a fixed rate of dividend whether with or without a right to participate in profits, carrying not less than twenty per cent of the voting power), and any sum paid by any such company in respect of any obligation which but for such payment would have been payable by the director or other person aforesaid,
- (iv) any sum deemed to be profits under the second proviso to clause (vi) of sub section (2) of section 10, and any sum deemed to be profits and gains under sub section (2A) of that section or under sub section (5) of section 12,
- (v) any sum deemed to be profits and gains of business, profession or vocation under sub-section (5A) of section 10,
- (vi) any capital gain chargeable under section 12B,
- (vii) the profits and gains of any business of insurance carried on by a mutual insurance association or by a co operative society computed in accordance with rule 9 in the Schedule,]

<sup>3</sup>[(6D) "Inspecting Assistant Commissioner" means a person appointed to be an Inspecting Assistant Commissioner of Income-tax under section 5,]

<sup>4</sup>[(6E) "Inspector of Income-tax" means a person appointed to be an Inspector of Income-tax under section 5,]

(7) "Income-tax Officer" means a person appointed to be an Income-tax Officer under section 5,

<sup>5</sup>[(7A) "Indian company" means a company as defined in the Indian Companies Act, 1913 (VII of 1913), and includes a company formed and registered under any law in force in the merged territories or <sup>6</sup>[in the territories which immediately before the 1st November, 1956, were comprised in any Part B State] other than the State of Jammu and Kashmir before the extension thereto of the Indian Companies Act, 1913, and in the case of the State of Jammu and Kashmir, any company formed and registered under any law in

<sup>1</sup> Inserted, *ibid*

<sup>2</sup> Inserted, *ibid*, and substituted by s 3 of the Finance Act, 1955, with effect from the 1st April, 1955

<sup>3</sup> Inserted, *ibid* (7 of 1939)

<sup>4</sup> Inserted by s 2 of the Indian I T (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952

<sup>5</sup> Substituted by s 2 and Schedule of the Taxation Laws (Extension to Jammu and Kashmir) Act, 1954 (41 of 1954)

<sup>6</sup> Substituted for "in any Part B State" by the Adaptation of Laws (No 3) Order, 1956, with effect from the 1st November, 1956



force in that State provided that the registered office of the company in all cases is in the taxable territories.]

(8) "Magistrate" means a Presidency Magistrate or a Magistrate of the first class, or a Magistrate of the second class specially empowered by [the Central Government]<sup>8</sup>[or in the State of Jammu and Kashmir the State Government] to try offences against this Act,

<sup>9</sup>[(8A) "manager" and "managing agent" have the meanings respectively assigned to them in the Indian Companies Act, 1913 (VII of 1913),]

(9) "person" includes a Hindu undivided family<sup>10</sup>[and a local authority],

(10) "prescribed" means prescribed by rules made under this Act,

<sup>11</sup>[(11) "previous year" means—

(i) in respect of any separate source of income, profits and gains—

(a) the twelve months ending on the 31st day of March next preceding the year for which the assessment is to be made, or, if the accounts of the assessee have been made up to a date within the said twelve months in respect of a year ending on any date other than the said 31st day of March, then at the option of the assessee, the year ending on the date to which his accounts have been so made up

Provided that where in respect of a particular source of income, profits and gains an assessee has once been assessed, or where in respect of a business, profession or vocation newly set up an assessee has exercised the option under sub clause (c), he shall not, in respect of that source or, as the case may be, business, profession or vocation, exercise the option given by this sub clause so as to vary the meaning of the expression "previous year" as then applicable to him except with the consent of the Income-tax Officer and upon such conditions as the Income-tax Officer may think fit to impose, or

(b) in the case of any person, business or company or class of person, business or company, such period as may be determined by the Central Board of Revenue or by such authority as the Board may authorise in this behalf, or

(c) where a business, profession or vocation has been newly set up in the financial year preceding the year for which assessment is to be made, the period from the date of the setting up of the business, profession or vocation to the 31st day of March next following or to the last day of the period determined under sub clause (b), or, if the accounts

<sup>7</sup> Substituted for "the Local Government" by the Government of India (Adaptation of Indian Laws) Order 1937

<sup>8</sup> Inserted by s 2 and Schedule of the Taxation Laws (Extension to Jammu and Kashmir) Act, 1954 (41 of 1954)

<sup>9</sup> Inserted by s 3 of the Finance Act 1955, with effect from the 1st April 1955

<sup>10</sup> Inserted by s 2 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>11</sup> Substituted by s 2 of the Indian I T (Amendment) Act 1953 (25 of 1953), with effect from the 1st April 1952

of the assessee are made up in respect of a period not exceeding twelve months from the date of the setting up of the business, profession or vocation and the case is not one for which a period has been determined under sub-clause (b), then, at the option of the assessee, the period from the date of the setting up of the business, profession or vocation to the date to which his accounts have been so made up

Provided that when the date to which the accounts have been so made up does not fall between the setting up of the business, profession or vocation and the next following 31st day of March inclusive, it shall be deemed that there is no previous year for the said assessment year and the previous year which would otherwise have been determined according to the option exercised by the assessee shall be deemed to be the previous year for the next succeeding assessment year,

- (11) in respect of the share of the income, profits and gains of a firm where the assessee is a partner in the firm and the firm has been assessed as such, the period as determined for the assessment of the income, profits and gains of the firm ,]
- (12) "principal officer", used with reference to a local authority or a company or any other public body or <sup>12</sup>[any] association, means—
- (a) the secretary, treasurer, manager or agent of the authority, company, body or association, or
  - (b) any person connected with the authority, company, body, or association upon whom the Income-tax Officer has served a notice of his intention of treating him as the principal officer thereof,
- (13) "public servant" has the same meaning as in the Indian Penal Code (XLV of 1860),
- <sup>13</sup>[(14) "registered firm" means a firm registered under the provisions of section 26A],
- <sup>14</sup>[(14A) "taxable territories" means—
- (a) as respects any period before the 15th day of August, 1947, the territories then referred to as British India, but including Berar,
  - (b) as respects any period after the 14th day of August, 1947, and before the 26th day of January, 1950, the territories for the time being comprised in the Provinces of India, but excluding the merged territory of Cooch-Bihar,
  - (c) as respects any period after the 25th day of January and before the 1st day of April, 1950, the territories comprised in Part A States, but excluding the merged territory of Cooch-Bihar, and the territories comprised in Part C States, but excluding the States of Manipur, Tripura and Vindhya Pradesh,
  - (d) as respects any period after the 31st day of March, 1950, and before the 13th day of April, 1950, the territory of India

<sup>12</sup> Inserted by s 2 of the Indian I T (Amendment) Act, 1924 (11 of 1924)

<sup>13</sup> Substituted by s 2 of the Indian I T (Amendment) Act, 1930 (21 of 1930)

<sup>14</sup> Inserted by the Adaptation of Laws Order, 1950, and substituted by s 3 of the Finance Act, 1950 (25 of 1950), with effect from the 1st April, 1950

excluding the State of Jammu and Kashmir and the Patiala and East Punjab States Union,<sup>15\*</sup>

(e) as respects any period after the 12th day of April, 1950, the territory of India excluding the State of Jammu and Kashmir,

<sup>15</sup>[(f) as respects any period after the 12th day of April, 1954, the whole of the territory of India ]

Provided that the taxable territories shall be deemed to include—

(a) the merged territories—

(i) as respects any period after the 31st day of March, 1949, for any of the purposes of this Act, and

(ii) as respects any period included in the previous year, for the purpose of making any assessment for the year ending on the 31st day of March, 1950, or for any subsequent year, and

(b) the whole of the territory of India excluding the State of Jammu and Kashmir—

(i) as respects any period, for the purposes of sections 4A and 4B,

(ii) as respects any period after the 31st day of March, 1950, for any of the purposes of this Act, and

(iii) as respects any period included in the previous year, for the purpose of making any assessment of the year ending on the 31st day of March, 1951, or for any subsequent year,]

<sup>16</sup>[(c) the whole of the territory of India—

(i) as respects any period, for the purposes of sections 4A and 4B,

(ii) as respects any period after the 31st day of March, 1954, for any of the purposes of this Act, and

(iii) as respects any period included in the previous year, for the purpose of making any assessment for the year ending on the 31st day of March, 1955, or for any subsequent year,]

(15) "total income" means total amount of income, profits and gains <sup>17</sup>[referred to in sub section (1) of section 4] computed in the manner laid down in <sup>18</sup>[this Act], and

<sup>19</sup>["total world income" includes all income, profits and gains wherever accruing or arising except income to which, under the provisions of sub section (3) of section 4, this Act <sup>20</sup>[does not apply and except any capital gain which is not includible in the total income of an assessee],]

(16) "unregistered firm" means a firm which is not a registered firm

<sup>15</sup> "And" was omitted, and cl (f) was inserted, by s 2 and Schedule of the Taxation Laws (Extension to Jammu and Kashmir) Act, 1954 (41 of 1954)

<sup>16</sup> Inserted by s 2 and Schedule of the Taxation Laws (Extension to Jammu and Kashmir) Act, 1954 (41 of 1954)

<sup>17</sup> Substituted for "from all sources to which this Act applies" by s 2 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>18</sup> Substituted for "section 16", *ibid*

<sup>19</sup> Inserted, *ibid*

<sup>20</sup> Substituted for "does not apply, and" by s 2 of the I T and E P T (Amendment) Act, 1947 (22 of 1947)

## CHAPTER I

## CHARGE OF INCOME TAX

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3,

3 Charge of income-tax —Where any <sup>21</sup>[Central Act] enacts that income-tax shall be charged for any year at any rate or rates <sup>22</sup>\* \* \* tax at that rate or those rates shall be charged for that year in accordance with, and subject to the provisions of, this Act in respect of <sup>23</sup>[the total income] of the previous year of every <sup>24</sup>[individual, Hindu undivided family, <sup>25</sup>[company and local authority, and of every firm and other association of persons or the partners of the firm or the members of the association individually]]

4 Application of Act —<sup>1</sup>[(1) Subject to the provisions of this Act, the total income of any previous year of any person includes all income, profits and gains from whatever source derived which—

- (a) are received or are deemed to be received in <sup>2</sup>[the taxable territories] in such year by or on behalf of such person, or
- (b) if such person is resident in <sup>2</sup>[the taxable territories] during such year,—
  - (i) accrue or arise or are deemed to accrue or arise to him in <sup>2</sup>[the taxable territories] during such year, or
  - (ii) accrue or arise to him without <sup>2</sup>[the taxable territories] during such year, or
  - (iii) having accrued or arisen to him without <sup>2</sup>[the taxable territories] before the beginning of such year and after the 1st day of April, 1933, are brought into or received in <sup>2</sup>[the taxable territories] by him during such year, or
- (c) if such person is not resident in <sup>2</sup>[the taxable territories] during such year, accrue or arise or are deemed to accrue or arise to him in <sup>2</sup>[the taxable territories] during such year

Provided that there shall not be included in any assessment for the year ending on the 31st day of March, 1940, both the amount of the income, profits and gains referred to in sub clause (i) of clause (b) and the amount of the income, profits and gains referred to in sub clause (iii) of clause (b) but only the greater of these two amounts

Provided further that, in the case of a person not ordinarily resident in <sup>3</sup>[the taxable territories], income, profits and gains which accrue or arise to him without <sup>3</sup>[the taxable territories] shall not be so included unless they are derived from a business controlled in or a profession or vocation set up in India or unless they are brought into or received in <sup>3</sup>[the taxable territories] by him during such year

<sup>21</sup> Substituted for "Act of the Central Legislature" by the Adaptation of Laws Order, 1950

<sup>22</sup> "Applicable to the total income of an assessee" omitted by s 3 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>23</sup> Substituted for "all income, profits and gains", *ibid*

<sup>24</sup> Substituted for "individual, company, firm and Hindu undivided family" by s 3 read with s 11 of the Indian I T (Amendment) Act, 1924 (11 of 1924), with effect from the 1st April, 1923

<sup>25</sup> Substituted for "company, firm and other association of individuals" by s 3 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>1</sup> Sub secs (1) and (2) were substituted by s 4, *ibid*

<sup>2</sup> Substituted for "British India" by the Adaptation of Laws Order, 1950

<sup>3</sup> Substituted for "British India", *ibid*

\* \* \* \* \*

<sup>3</sup>[Provided further that, in the case of a person who was not resident in the taxable territories in two out of the three years immediately preceding the previous year, so much of the income, profits and gains referred to in sub clause (iii) of clause (b) as accrued or arose to him without India, shall not be included in his total income chargeable in any year subsequent to the year ending on the 31st day of March, 1951, whether his assessment for that year has or has not been completed before the commencement of the Indian Income-tax (Amendment) Act, 1953]

Provided further that, in the case of a person resident in the taxable territories to whom the preceding proviso or paragraph 8 of the Part B States (Taxation Concessions) Order, 1950, does not apply, so much of the income, profits and gains referred to in sub clause (iii) of clause (b) as accrued or arose to him without India and were not chargeable under this Act, unless brought into or received in the taxable territories, shall not be included in his total income if—

<sup>6</sup>[(1) such income, profits and gains are brought into or received in the taxable territories after the 2nd day of September, 1951, and the amount of income tax, interest or penalty or other sum, if any, due from such person under this Act on the date of receipt of such income, profits and gains in the taxable territories is paid within three months of the receipt thereof in the taxable territories, and

(ii) in any case where such income, profits and gains are brought into or received in the taxable territories after the 2nd day of September, 1951, and before the 30th day of September, 1954, half of the amount of such income, profits and gains is invested within three months of the receipt thereof in the taxable territories in securities of the Central Government or of a State Government purchased through the Reserve Bank of India and kept with the said Bank for custody for a minimum period of two years]]

*Explanation 1*—Income, profits and gains accruing or arising without [the taxable territories] shall not be deemed to be received in or brought into [the taxable territories] within the meaning of this sub section by reason only of the fact that they are taken into account in a balance sheet prepared in [the taxable territories]

*Explanation 2*—Income which would be chargeable under the head "Salaries" if payable in [the taxable territories] <sup>8</sup>\* \* \* shall be deemed to accrue or arise in [the taxable territories] wherever paid if it is earned in [the taxable territories], <sup>9</sup>[but any pension payable outside

<sup>4</sup> The proviso, which had been substituted by s 3 of the Finance Act, 1958, with effect from the 1st April, 1958, was omitted by s 3 of the Finance Act, 1959. The latter amendment, in so far as it omits the proviso in its application to "salaries", is to have effect from the 1st April, 1959 for the purpose of making any deductions of income tax and super tax under s 18(2) and from the 1st April, 1960, for other purposes. As regards the earlier part of the proviso which exempted any class of foreign income assessable under any head to the extent of Rs 4,500, the deletion of the proviso has effect from the 1st April, 1959.

<sup>5</sup> Inserted by s 3 of the Indian I T (Amendment) Act, 1953 (25 of 1953) with effect from the 1st April 1952.

<sup>6</sup> Substituted by s 4 of the Finance Act, 1955, with effect from the 1st April, 1955.

<sup>7</sup> Substituted for 'British India' by the Adaptation of Laws Order, 1950.

<sup>8</sup> "And not being pension payable without India" omitted by s 3 of the I T and B P T (Amendment) Act 1948 (48 of 1948) with effect from the 30th March 1948.

<sup>9</sup> Inserted by s 3 of the Indian I T (Amendment) Act 1953 (25 of 1953), with effect from the 1st April, 1952.

India to a person residing permanently outside India shall not be deemed to accrue or arise in the taxable territories, if the pension is payable to a person referred to in article 314 of the Constitution or to a person, who, having been appointed before the 15th August, 1947, to be a Judge of the Federal Court or of a High Court within the meaning of the Government of India Act, 1935, continues to serve on or after the commencement of the Constitution as a Judge in India]

<sup>10</sup>[*Explanation 2A*—Income which would be chargeable under the head "Salaries" if payable in the taxable territories but which is paid without the taxable territories by the Government to a citizen of India for rendering service without the taxable territories shall be deemed to accrue or arise in the taxable territories]

*Explanation 3*—A dividend paid <sup>11</sup>[by an Indian company] without <sup>12</sup>[the taxable territories] shall be deemed to be income accruing and arising in <sup>13</sup>[the taxable territories] to the extent to which it has been paid out of profits subjected to income tax in <sup>14</sup>[the taxable territories]

<sup>15</sup>[*Explanation 1*—For the purposes of sub clause (iii) of clause (b) of sub-section (1), income, profits and gains accruing, or arising, in any of the <sup>16</sup>[merged territories] <sup>17</sup>[or any of the Part B States] <sup>18</sup> \* <sup>19</sup> \* <sup>20</sup> \*] before the beginning of a previous year and after the 1st day of April, 1933 shall be deemed to be brought into, or received in, <sup>21</sup>[the taxable territories] during such year if, and only if, they are brought into, or received in, any part of <sup>22</sup>[the taxable territories] other than that <sup>23</sup>[merged territory] <sup>24</sup>[or State] during such year]

(2) For the purposes of sub section (1), where a husband is not resident in <sup>25</sup>[the taxable territories], remittances received by his wife resident in <sup>26</sup>[the taxable territories] out of any part of his income which is not included in his total income shall be deemed to be income accruing in <sup>27</sup>[the taxable territories] to the wife]

(3) <sup>28</sup>[Any income, profits or gains falling within the following classes shall not be included in the total income of the person receiving them]

<sup>29</sup>[(1) Subject to the provisions of clause (c) of sub-section (1) of section 16, any income derived from property held under trust or other legal obligation wholly for religious or charitable purposes, in so far as such income is applied or accumulated for application to such religious or charitable purposes as relate to anything done within the taxable territories, and in the case of property so held in part only for such purposes, the income applied or finally set apart for application thereto

<sup>10</sup> Inserted by s 3 of the Finance Act, 1959, with effect from the 1st April, 1959, for the purpose of making any deductions of income tax and super tax under s 18(2), and from the 1st April, 1960, for other purposes

<sup>11</sup> Inserted by s 8 of the Indian Finance Act, 1948 (20 of 1948)

<sup>12</sup> Inserted by s 9 of the Taxation Laws (Extension to Merged States and Amendment) Act, 1949 (67 of 1949)

<sup>13</sup> Substituted for "merged States" and "merged State" by the Adaptation of Laws Order, 1950

<sup>14</sup> Inserted by s 3 of the Finance Act, 1950 (25 of 1950), with effect from the 1st April, 1950

<sup>15</sup> "Other than the State of Jammu and Kashmir" omitted by s 2 and Schedule of the Taxation Laws (Extension to Jammu and Kashmir) Act, 1954 (41 of 1954)

<sup>16</sup> Substituted for "British India" by the Adaptation of Laws Order, 1950

<sup>17</sup> Substituted for "This Act shall not apply to the following classes of income" by s 4 of the Indian I T (Amendment) Act, 1930 (7 of 1930)

<sup>18</sup> Substituted by s 3 of the Indian I T (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952

(5) Nothing in this section shall affect the application of section 23A in relation to the profits or gains of an industrial undertaking <sup>17</sup>[or a hotel] to which this section applies <sup>18\*</sup> \* \*

<sup>19</sup>[(6) The provisions of this section <sup>20</sup>[shall, in relation to an industrial undertaking, apply] to the assessment for the financial year next following the previous year in which the assessee begins to manufacture or produce articles and for the four assessments immediately succeeding ]

<sup>21</sup>[Provided that where the assessee is a co operative society, this sub-section shall have effect as if for the words "four assessments" the words "six assessments" had been substituted ]

<sup>22</sup>[(7) The provisions of this section shall, in relation to a hotel, apply to the assessment for the financial year next following the previous year in which the hotel starts functioning and for the four assessments immediately succeeding ]

#### 16 Exemptions and exclusions in determining the total income —

<sup>23</sup>[(1) In computing the total income of an assessee—

(a) any sums exempted under the <sup>24</sup>[first] proviso to sub section (1) of section 7, the second and third provisos to section 8, <sup>25</sup>[sub-sections (2), (3), (4) and (5)] of <sup>1</sup>[section 14, <sup>2</sup>[section 15, <sup>3</sup>[section 15B, section 15C and section 58F]]] shall be included, <sup>4</sup>[and any sum exempted under section 15A shall also be included except for the purpose of determining the rates at which income tax (but not super-tax) is payable by the assessee to whom the exemption is given],

(b) when the assessee is a partner of a firm, then, whether the firm has made a profit or a loss, his share (whether a net profit or a net loss) shall be taken to be any salary, interest, commission or other remuneration payable to him by the firm in respect of the previous year increased or decreased respectively by his share in the balance of the profit or loss of the firm after the deduction of any interest, salary, commission or other remuneration payable to any partner in respect of the previous year

<sup>17</sup> Inserted by s 7 of the Finance Act, 1961 with effect from the 1st April, 1961

<sup>18</sup> "And for the purposes of that section, the expression 'assessable income' shall be deemed to include the profits or gains in respect of which the tax is not payable under this section" omitted by s 12 of the Finance Act, 1955, with effect from the 1st April, 1955

<sup>19</sup> Substituted by s 10 of the Indian I T (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952

<sup>20</sup> Substituted for "shall apply" by s 7 of the Finance Act, 1961, with effect from the 1st April, 1961

<sup>21</sup> Inserted by s 8 of the Finance Act, 1960 with effect from the 1st April 1960

<sup>22</sup> Inserted by s 7 of the Finance Act, 1961, with effect from the 1st April 1961

<sup>23</sup> Sub s-ss (1) and (2) were substituted by s 18 of the Indian I T (Amendment) Act 1939 (7 of 1939)

<sup>24</sup> Substituted for "second" by s 13 of the Finance Act, 1955, with effect from the 1st April 1955

<sup>25</sup> Substituted for "sub section (2)", *ibid*, with effect from the 1st April, 1955

<sup>1</sup> Substituted for "section 14 and section 15" by s 8 of the Indian Finance Act, 1948 (20 of 1948)

<sup>2</sup> Substituted for 'section 15 and section 15B' by s 14 of the Taxation Laws (Extension to Merged States and Amendment) Act 1949 (67 of 1949)

<sup>3</sup> Substituted for 'section 15B and section 15C' by s 6 of the Taxation Laws (Amendment) Act, 1960 (28 of 1960) with effect from the 1st April, 1957 for the purposes of sub secs (2) and (2B) of s 18 and from the 1st April, 1958 for other purposes

<sup>4</sup> Inserted by s 4 of Ordinance No 9 of 1945

Provided that if his share so computed is a loss, such loss **Div.**  
may be set off or carried forward and set off in accordance **S. 1**  
with the provisions of section 24,

- (c) all income arising to any person by virtue of a settlement or disposition whether revocable or not, and whether effected before or after the commencement of the Indian Income-tax (Amendment) Act, 1939 (VII of 1939), from assets remaining the property of the settlor or disposer, shall be deemed to be income of the settlor or disposer, and all income arising to any person by virtue of a revocable transfer of assets shall be deemed to be income of the transferor

Provided that for the purposes of this clause a settlement, disposition or transfer shall be deemed to be revocable if it contains any provision for the retransfer directly or indirectly of the income or assets to the settlor, disposer or transferor, or in any way gives the settlor, disposer or transferor a right to reassume power directly or indirectly over the income or assets

Provided further that the expression "settlement or disposition" shall for the purposes of this clause include any disposition, trust, covenant, agreement, or arrangement, and the expression "settlor or disposer" in relation to a settlement or disposition shall include any person by whom the settlement or disposition was made

Provided further that this clause shall not apply to any income arising to any person by virtue of a settlement or disposition which is not revocable for a period exceeding six years or during the lifetime of the person and from which income the settlor or disposer derives no direct or indirect benefit but that the settlor shall be liable to be assessed on the said income as and when the power to revoke arises to him

(2) 5\* \* \* \*

<sup>6</sup>[(3) In computing the total income of any individual for the purpose of assessment, there shall be included—

- (a) so much of the income of a wife or minor child of such individual as arises directly or indirectly—

- (i) from the membership of the wife in a firm of which her husband is a partner,
- (ii) from the admission of the minor to the benefits of partnership in a firm of which such individual is a partner,
- (iii) from assets transferred directly or indirectly to the wife by the husband otherwise than for adequate consideration or in connection with an agreement to live apart, or

<sup>6</sup> Omitted by s 7 of the Finance Act, 1959, with effect from the 1st April, 1960. However, in relation to dividends declared or payable by a company on or before the 30th June, 1960, in respect of any previous year relevant to any assessment year prior to the assessment year 1960-61, the Income tax Act shall have effect as if the sub section had not been omitted, and in relation to dividends declared or payable by a company in respect of the previous year relevant to the assessment year 1960-61 the omission shall have effect on and from the 1st April, 1959 (See s 3 of the Finance Act, 1960)

<sup>6</sup> Inserted by s 2 of the Indian I T (Amendment) Act, 1937 (4 of 1937)



- (ii) from assets transferred directly or indirectly to the minor child, not being a married daughter, by such individual [otherwise than for adequate consideration], and
- (b) so much of the income of any <sup>6</sup>[person or association of persons] <sup>9\*</sup> \* \* \* as arises from assets transferred <sup>10</sup>[otherwise than for adequate consideration to the person or association] by such individual <sup>11</sup>[for the benefit of his wife or a minor child or both ]]

<sup>12</sup>[17 Determination of tax payable in certain special cases —

<sup>13</sup>[(1) Where a person is not resident in the taxable territories and is not a company, the tax, including super-tax, payable by him or on his behalf on his total income shall be an amount equal to—

- (a) the income tax which would be payable on his total income at the maximum rate, *plus*
- (b) either the super-tax which would be payable on his total income <sup>14</sup>[at the rate of <sup>15</sup>[nineteen per cent ]], or the super-tax which would be payable on his total income if it were the total income of a person resident in the taxable territories, whichever is greater

Provided that any such person may, on the first occasion on which he is assessable for any year subsequent to the year ending on the 31st day of March, 1951, and before the 30th day of June in that year, or where the first occasion on which he is so assessable falls during the year ending on the 31st day of March, 1952, before such <sup>16</sup>date as the Central Board of Revenue may, by notification in the Official Gazette, specify in this behalf, by notice in writing to the Income-tax Officer declare (such declaration being final and being applicable to all assessments thereafter) that the tax, including super-tax, payable by him or on his behalf on his total income shall be determined with reference to his total world income, and thereupon such tax shall be an amount bearing to the total amount of tax including super-tax which would have been payable on his total world income had it been his total income the same proportion as his total income bears to his total world income ]

<sup>17</sup>[Provided further that where any such person satisfies the Income-tax Officer that he was prevented by sufficient cause from making such declaration on the first occasion on which he became assessable and his failure to make such declaration has not resulted in reducing his liability to tax for any year, the Income tax Officer may, with the previous approval of the Inspecting Assistant Commissioner, allow such person to make the

<sup>7</sup> Inserted by s 18 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>8</sup> Substituted for "association of individuals", *ibid*

<sup>9</sup> "Consisting of such individual and his wife" omitted, *ibid*

<sup>10</sup> Substituted for "to the association", *ibid*

<sup>11</sup> Inserted, *ibid*

<sup>12</sup> Substituted for the original section by s 19, *ibid*

<sup>13</sup> Substituted by s 3 of the Finance Act, 1951 (23 of 1951) with effect from the 1st April 1951

<sup>14</sup> Substituted for "at the rate applicable in the case of an individual to the slab next to the slab exempt from super tax" by s 13 of the Finance Act 1956 with effect from the 1st April 1956

<sup>15</sup> Substituted for "three annas in the rupee" by s 6 of the Finance (No 2) Act 1957, with effect from the 1st April 1957

<sup>16</sup> The date specified is the 31st December, 1951 (See Notifications No S P O 713 dated the 10th May, 1951 and No S R O 1803, dated the 16th November, 1951)

<sup>17</sup> Inserted by s 11 of the Indian I T (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952

declaration at any time after the expiry of the period specified, and such declaration shall have effect in relation to the assessment for the year in which the declaration is made (if such assessment had not been completed before such declaration) and all assessments thereafter ] Div S 17

<sup>18</sup>[(1A) Notwithstanding anything contained in sub section (1), where a citizen of India, not resident in the taxable territories, is in receipt of salary from the Government for rendering service without the taxable territories, the tax, including super-tax, payable by him on his total income for the assessment years commencing with the assessment year 1960-61 shall be determined with reference to his total world income in the manner specified in the first proviso to sub-section (1) ]

(2) Where there is included in the total income of any assessee any income (including income from a share in an unregistered firm, if assessed as such) exempted from tax by or under the provisions of this Act, the income-tax excluding super-tax payable by the assessee shall be an amount bearing to the total amount of the income-tax excluding super-tax which would have been payable on the total income had no part of it been exempted the same proportion as the unexempted portion of the total income bears to the total income ]

<sup>19</sup>[(3) Where there is included in the total income of any assessee any income exempted from tax under <sup>20</sup>[clause (aa) or] clause (c) of sub section (2) of section 14, <sup>21</sup>[or under section 15B] <sup>22</sup>[or under section 15C], the super-tax payable by the assessee shall be an amount bearing to the total amount of the super-tax which would have been payable on the total income had no part of it been so exempted the same proportion as the total income less the portion so exempted bears to the total income

(4) Where any income exempted from tax under clause (c) of sub-section (2) of section 14 which has been taken into account under sub-section (2) or sub-section (3) of this section as part of the total income of an assessee for the purpose of determining the income-tax or super-tax payable by him is in a subsequent year brought into or received in <sup>23</sup>[the taxable territories] by the assessee and becomes chargeable with tax accordingly, the tax including super-tax payable by the assessee on his total income of that subsequent year shall be—

- (a) the amount which bears to the total amount of the tax including super-tax which would have been payable on his total income as reduced by the amount of the income so brought into or received in <sup>23</sup>[the taxable territories] had such reduced income been his total income the same proportion as his total income bears to such reduced income, or
- (b) the amount which bears to the total amount of the tax including super-tax which would have been payable on the amount of the

<sup>18</sup> Inserted by s 8 of the Finance Act, 1959, with effect from the 1st April, 1959, for the purpose of making any deductions of income tax and super tax under s 18(2), and from the 1st April, 1960, for other purposes

<sup>19</sup> Sub secs (3) and (4) were inserted by s 10 of the Indian I T (Amendment) Act, 1941 (23 of 1941), but effect is not to be given to them in the making of any assessment for any year before the year ending 31st March, 1943

<sup>20</sup> Inserted by s 13 of the Finance Act, 1956, with effect from the 1st April, 1956

<sup>21</sup> Inserted by s 8 of the Indian Finance Act, 1948 (20 of 1948)

<sup>22</sup> Inserted by s 15 of the Taxation Laws (Extension to Merged States and Amendment) Act, 1949 (67 of 1949)

<sup>23</sup> Substituted for " British India " by the Adaptation of Laws Order, 1950

income so brought into or received in <sup>24</sup>[the taxable territories] had such income been his total income the same proportion as his total income bears to the amount of the income so brought into or received in <sup>24</sup>[the taxable territories],

whichever is the greater ]

<sup>25</sup>[(5) Where the amount of the total income of any assessee is deemed to be the total income reduced under the provisions of section 15A by an allowance for earned income, the expression "total income" in this section shall, for the purpose of determining the amount of income tax (but not super-tax) payable by the assessee, be deemed to refer to his total income so reduced ]

<sup>1</sup>[(6) Where the total income of an assessee, not being a company, includes any income chargeable under the head "Capital gains", the tax, including super-tax, payable by him on his total income shall be—

(i) income tax and super tax payable on his total income as reduced by the amount of such inclusion, had such reduced income been his total income, *plus*

<sup>2</sup>[(ii) on the whole amount of such inclusion, income tax equal to the amount which bears to the income tax which would have been payable on his total income as reduced by two-thirds of the amount of such inclusion the same proportion as the whole amount of such inclusion bears to such reduced total income

Provided that where the amount of such inclusion does not exceed the sum of five thousand rupees or the total income does not exceed the sum of ten thousand rupees such income tax shall be nil and in any other case such income-tax shall not exceed one half of the amount by which the amount of such inclusion exceeds the sum of five thousand rupees ]

<sup>3</sup>[(7) Where the total income of a company includes any income chargeable under the head "Capital gains", the super tax payable by it shall be the aggregate of the tax calculated—

(i) at the rate of ten per cent on the amount of capital gains so included, and

(ii) at the rate applicable to the company on its total income as reduced by the amount of the capital gains, had such reduced income been its total income ]]

## CHAPTER IV

### DEDUCTIONS AND ASSESSMENT

#### 18 Payment by deduction at source —(1)<sup>4\*</sup> \* \* \*

11, (2) Any person responsible for paying any income chargeable under the head "Salaries" shall, at the time of payment, deduct income tax <sup>5</sup>[and

<sup>24</sup> Substituted for "British India" by the Adaptation of Laws Order, 1950

<sup>25</sup> Inserted by s 5 of Ordinance No 9 of 1945

<sup>1</sup> Inserted by s 8 of the I T and E P T (Amendment) Act 1947 (22 of 1947)

<sup>2</sup> Substituted by s 5 of the Finance (No 3) Act, 1956 with effect from the 1st April 1957

<sup>3</sup> Substituted *ibid* with effect from the 1st April, 1957, and again substituted by s 8 of the Finance Act 1959, with effect from the 1st April 1960

<sup>4</sup> Omitted by s 7 of the Indian I T (Second Amendment) Act, 1933 (18 of 1933)

<sup>5</sup> Substituted for 'but not super tax' by s 20 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

super-tax] on the amount payable <sup>9</sup>[at a rate representing the average of the rates in force for the financial year in which he is required to deduct the tax which are applicable to the estimated total income of the assessee under this head] Div S 18

Provided that such person may, at the time of making any deduction, increase or reduce the amount to be deducted under this sub section for the purpose of adjusting any excess or deficiency arising out of any previous deduction or failure to deduct

<sup>7</sup>[(2A) Notwithstanding anything hereinbefore contained for the purpose of making the deduction under sub section (2), there shall be included in the amount payable any income chargeable under the head "Salaries" which is payable to the assessee out of India by or on behalf of the <sup>8</sup>[Government], and the value in rupees of such income shall be calculated at the prescribed rate of exchange ] (R. 1

<sup>9</sup>[(2B) Any person responsible for paying any income chargeable under the head "Salaries" <sup>10</sup>[to a person not resident in the taxable territories, not being a person referred to in sub section (1A) of section 17, shall, at the time of payment, deduct income tax and super tax at the prescribed rates on the estimated income of the assessee under this head]

<sup>11</sup>[Provided that where—

- (i) the person not so resident has obtained a certificate in writing from the Income tax Officer (which certificate the Income tax Officer shall be bound to give in every proper case on the application of the assessee) stating that income-tax and super-tax may be deducted at the rates specified therein, or
- (ii) the Income tax Officer has, by an order in writing, required the person responsible for making payment to deduct income-tax and super-tax at the rates specified in that order,

the person responsible for making payment shall, until such certificate or order is cancelled by the Income-tax Officer, deduct income-tax and super-tax at the rates specified in such certificate or order, as the case may be ] ]

<sup>12</sup>[(3) The person responsible for paying any income chargeable under the head "Interest on securities" shall, at the time of payment, deduct income tax and super-tax at the prescribed rates on the amount of interest payable] (Rr. 12, 12A)

Provided that where, in the case of any recipient, the Income-tax Officer gives a certificate in writing (which certificate he shall give in every (Rr. 12C, 12D)

<sup>6</sup> These words were substituted for "at a rate representing the average of the rates applicable to the estimated total income of the assessee under this head" by s 8 of the Finance Act, 1958, and shall be deemed always to have been in the Act

<sup>7</sup> Inserted by s 2 of the Indian I T (Second Amendment) Act, 1925 (16 of 1925)

<sup>8</sup> Substituted for "Crown" by the Adaptation of Laws Order, 1950 "The Crown" had been substituted for "Government" by the Government of India (Adaptation of Indian Laws) Order, 1937

<sup>9</sup> Inserted by s 20 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>10</sup> Substituted for "to a person not resident in the taxable territories shall at the time of payment deduct income tax at the maximum rate and also super tax on the estimated income of the assessee under this head in accordance with the provisions of clause (b) of sub section (1) of section 17" by s 9 of the Finance Act, 1959, with effect from the 1st April, 1959

<sup>11</sup> Inserted by s 12 of the Indian I T (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952

<sup>12</sup> Substituted for sub secs (3), (3A) and (3B) by s 9 of the Finance Act, 1959, with effect from the 1st April, 1959

proper case on the application of the assessee) that to the best of his belief the total income or the total world income of the recipient will be less than the minimum liable to income tax or will be liable to income tax at a rate which is less than the prescribed rate, the person responsible for paying the interest to such recipient shall, until such certificate is cancelled by the Income tax Officer, pay the interest without deduction or deduct the tax at such lesser rate, as the case may be

Provided further that where the recipient is not a company, the proviso to sub section (2B) shall apply to the deduction of super-tax under this sub section as it applies to the deduction of super-tax under sub section (2B)

(3A) \*

(3B) Any person responsible for paying to a person, not being a company, who is not resident in the taxable territories or to a company which is neither an Indian company nor a company which has made the prescribed arrangements for the declaration and payment of dividends within India, any interest, not being "Interest on securities", or any other sum, not being dividends, chargeable under the provisions of this Act, shall, at the time of payment, unless he is himself liable to pay any income tax and super tax thereon as an agent, deduct income tax and super tax at the prescribed rates

Provided that where the recipient is not a company, the proviso to sub-section (2B) shall apply to the deduction of income-tax and super-tax under this sub section as it applies to the deduction of income tax and super-tax under sub section (2B)

Provided further that nothing in this sub section shall apply to any payment made in the course of transactions in respect of which a person responsible for payment is deemed under the first proviso to section 43 not to be an agent of the recipient ]

A) <sup>13</sup>[(3C) Where the person responsible for paying any sum chargeable under this Act other than interest, to a person not resident in the taxable territories, considers that the whole of such sum would not be income chargeable in the case of the recipient, he may make an application to the Income-tax Officer to determine, by general or special order, the appropriate proportion of such sum so chargeable and upon such determination tax shall be deducted therefrom by the person responsible for making such payment in accordance with the provisions of sub section (3B) ]

<sup>14</sup>[(3D) The principal officer of an Indian company or a company which has made the prescribed arrangements for the declaration and payment of dividends <sup>15</sup>[(including dividends on preference shares)] within India shall, before making any payment in cash, or before issuing any cheque or warrant in respect of any dividend or before making any distribution or payment to a shareholder of any dividend within the meaning of sub clause (a) or sub-clause (b) or sub clause (c) or sub clause (d) or sub-clause (e) of clause (6A) of section 2, deduct on the amount of such dividend, income tax and super-tax at the prescribed rates

<sup>12</sup> Substituted by s 12 of the Indian I T (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April 1952

<sup>14</sup> Substituted for sub sec (3D) by s 9 of the Finance Act, 1959, with effect from the 1st April, 1959. However in relation to dividends declared or payable by a company on or before the 30th June 1960, in respect of any previous year relevant to any assessment year prior to the assessment year 1960-61 the Income tax Act shall have effect as if the substitution had not been made (See s 3 of the Finance Act 1960)

<sup>15</sup> Inserted by s 9 of the Finance Act 1960, with effect from the 1st April, 1960

Provided that where, in the case of any shareholder, not being a company, the Income tax Officer gives a certificate in writing (which certificate he shall give only in accordance with the rules made in this behalf) that to the best of his belief the total income or the total world income of the shareholder will be less than the minimum liable to income tax, the principal officer responsible for paying any dividend to such shareholder shall, until such certificate is cancelled by the Income tax Officer, pay the dividend without deduction

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S 18  
(R. 12E)

(3E)<sup>16\*</sup>

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(31) Where the principal officer of a company considers that by reason of the provisions of section 15C no income tax or super tax will be payable by the recipient on the whole or any portion of the dividend referred to in sub section (4) of that section he may, before paying the dividend to the shareholder, or issuing any cheque or warrant in respect thereof, make an application to the Income tax Officer to determine the appropriate proportion of the dividend on which income tax or super-tax is not payable by the recipient under the provisions of section 15C, and on such determination by the Income tax Officer, no income tax or super tax shall be deducted on such proportionate amount.]

(4) All sums deducted in accordance with the provisions of this section shall, for the purpose of computing the income of an assessee, be deemed to be income received

(5) Any deduction made<sup>17</sup>[and paid to the account of the Central Government] in accordance with the provisions of this section<sup>18\*</sup> shall be treated as a payment of income-tax<sup>19</sup>[or super-tax] on behalf of the person from whose income the deduction was made, or of the owner of the security<sup>20</sup>[or of the shareholder], as the case may be, and credit shall be given to him therefor<sup>21</sup>[on the production of the certificate furnished under sub section (9)<sup>22\*</sup> \*] in the assessment, if any, made for the following year under this Act

Provided that, if such person or such owner obtains, in accordance with the provisions of this Act, a refund of any portion of the tax so deducted, no credit shall be given for the amount of such refund

<sup>21</sup>[Provided further that where such person or owner is a person whose income is included under the provisions of<sup>22</sup>[clause (c) of sub section (1) or sub section (3) of section 16, section 44D or section 44E] in the total income of another person<sup>23</sup>[such other person] shall be deemed to be the

<sup>16</sup> Omitted, *ibid* with effect from the 1st April, 1960

<sup>17</sup> Inserted by s 12 of the Indian I T (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952

<sup>18</sup> The words "and any sum by which a dividend has been increased under sub section (2) of section 16", which had been inserted by s 20 of the Indian I T (Amendment) Act, 1939 (7 of 1939), and the words "or section 20, as the case may be", respectively, were omitted by s 9 of the Finance Act, 1959, with effect from the 1st April 1959. However, in relation to dividends declared or payable by a company on or before the 30th June, 1960, in respect of any previous year relevant to any assessment year prior to the assessment year 1960-61, the Income tax Act shall have effect as if the omission had not been made (See s 3 of the Finance Act, 1960)

<sup>19</sup> Inserted by s 7 of the Indian I T (Second Amendment) Act, 1933 (18 of 1933)

<sup>20</sup> Inserted by s 20 of the Indian I T (Amendment) Act 1939 (7 of 1939)

<sup>21</sup> Inserted by s 3 of the Indian I T (Amendment) Act, 1937 (4 of 1937)

<sup>22</sup> Substituted for "sub section (3) of section 16" by s 20 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>23</sup> Substituted for "that person", *ibid*

person or owner on whose behalf payment has been made and to whom credit shall be given in the assessment for the following year ]

<sup>24</sup>[Provided further that where any security or share in a company is owned jointly by two or more persons not constituting a partnership, credit in respect of the tax deducted<sup>25</sup>\* \* may be given to each such person in the same proportion in which the interest on such security or dividend on such share has been included in his total income ]

(6) All sums deducted in accordance with the provisions of this section shall be paid within the prescribed time by the person making the deduction to the credit of the <sup>1</sup>[Central Government] or as the <sup>2</sup>[Central Board of Revenue] directs

(7) <sup>3</sup>[If any person or the principal officer of a company does not deduct tax or after deducting fails to pay the sums deducted as required by or under this section, he, or the company, as the case may be,] shall, without prejudice to any other consequences which <sup>4</sup>[he or it] may incur, be deemed to be <sup>5</sup>[an assessee] in default in respect of the tax

<sup>6</sup>[Provided that the Income tax Officer shall not make a direction under sub section (1) of section 46 for the recovery of any penalty from such person unless satisfied that such person has wilfully failed to deduct and pay the tax ]

(8) The power to levy by deduction under this section shall be without prejudice to any other mode of recovery

(9) Every person deducting income-tax [or super-tax] in accordance with the provisions of <sup>8</sup>[sub section (3), <sup>9</sup> (3B) <sup>10</sup>or (3D)]] shall, <sup>11</sup>[at the

<sup>24</sup> Inserted by s 12 of the Indian I T (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April 1952

<sup>25</sup> The words "or in respect of any sum by which the dividend has been increased under sub section (2) of section 16" were omitted by s 9 of the Finance Act, 1959 with effect from the 1st April 1959. However, in relation to dividends declared or payable by a company on or before the 30th June, 1960 in respect of any previous year relevant to any assessment year prior to the assessment year 1960-61, the Income tax Act shall have effect as if the omission had not been made (See s 3 of the Finance Act 1960)

<sup>1</sup> Substituted for "Government of India" by the Government of India (Adaptation of Indian Laws) Order, 1937

<sup>2</sup> Substituted for "Board of Inland Revenue" by s 4 and Schedule of the Central Board of Revenue Act 1924 (4 of 1924)

<sup>3</sup> Substituted for "If any such person does not deduct or after deducting fails to pay the tax as required by or under this section he, and in the cases specified in sub section (3D) the company of which he is the principal officer" by s 9 of the Finance Act, 1959, with effect from the 1st April, 1959. However, in relation to dividends declared or payable by a company on or before the 30th June, 1960 in respect of any previous year relevant to any assessment year prior to the assessment year 1960-61 the Income tax Act shall have effect as if the substitution had not been made (See s 3 of the Finance Act, 1960)

<sup>4</sup> Substituted for "he" by s 20 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>5</sup> Substituted for "personally" by s 7 of the Indian I T (Second Amendment) Act, 1933 (18 of 1933)

<sup>6</sup> Inserted *ibid*

<sup>7</sup> Inserted *ibid*

<sup>8</sup> Substituted for 'sub section (3)', *ibid*

<sup>9</sup> "(3A)" was omitted by s 9 of the Finance Act, 1959 with effect from the 1st April, 1959

<sup>10</sup> Substituted for "(3C), (3D) or (3E)" by s 12 of the Indian I T (Amendment) Act 1953 (25 of 1953) with effect from the 1st April, 1952

<sup>11</sup> The words "at the time of payment of the sum from which tax has been deducted" were substituted for "at the time of payment of interest or dividends" by s 20 of the Indian I T (Amendment) Act 1939 (7 of 1939)

time of payment of the sum] "for, in the case may be, at the time of issue of a cheque or warrant for payment of any dividend to a shareholder furnish to the person to whom such payment is made or the cheque or warrant issued) a certificate to the effect that income tax [or super tax] has been deducted, and specifying the amount so deducted, the rate at which the tax has been deducted, and such other particulars as may be prescribed

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<sup>12</sup>[(10) Notwithstanding anything contained in this section no deduction of tax shall be made on any interest or dividend payable to the Government or to the Reserve Bank of India in respect of any securities or shares owned by it or in which it has full beneficial interest]

(11) For the purpose of deduction of tax under sub-sections (2B), (3), (3B) and (3D) the expression "prescribed rates" mean the rates prescribed in this behalf by the Finance Act of the year in which such deduction is required to be made]

<sup>14</sup>[Explanation —For the purposes of this section and section 20A, the expression "person responsible for paying" mean —

- (i) in the case of payment of income chargeable under the head "Salaries" other than payments by the Central Government or the Government of a State, the employer himself or if the employer is a company, the company itself including the principal officer thereof,
- (ii) in the case of payments of income chargeable under the head "Interest on securities" other than payments made by or on behalf of the Central Government or the Government of a State, the local authority or company including the principal officer thereof,
- (iii) in the case of payment of interest not being "Interest on securities", the payer himself or if the payer is a company, the company itself including the principal officer thereof]

<sup>1</sup>[18A. Advance payment of tax —(1) (a) <sup>15</sup>[In the case of income other than income chargeable under the head "Salaries",] the Income tax Officer may, on or after the 1st day of April in any financial year, by order in writing, require an assessee to pay quarterly to the credit of the Central Government on the 15th day of June, 15th day of September, 15th day of December and 15th day of March in that year, respectively, an amount equal to one-quarter of the income tax and super-tax payable on so much of such income as is included in his total income of the latest previous year in respect of which

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<sup>11</sup>Substituted for "from which tax has been deducted, furnish to the person to whom such payment is made" by s. 9 of the Finance Act, 1959, with effect from the 1st April, 1959. However, in relation to dividends declared or payable by a company on or before the 30th June, 1960, in respect of any previous year relevant to any assessment year prior to the assessment year 1960-61, the Income tax Act shall have effect as if the substitution had not been made. (See s. 3 of the Finance Act, 1960.)

<sup>12</sup>Inserted by s. 9 of the Finance Act, 1959, with effect from the 1st April, 1959. However, in relation to dividends declared or payable by a company on or before the 30th June, 1960, in respect of any previous year relevant to any assessment year prior to the assessment year 1960-61, the Income tax Act shall have effect as if the amendment had not been made. (See s. 3 of the Finance Act, 1960.)

<sup>14</sup>Inserted by s. 12 of the Indian I T (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952.

<sup>15</sup>Inserted by s. 5 of the Indian I T (Amendment) Act, 1944 (11 of 1944).

<sup>16</sup>Substituted for "In the case of income in respect of which provision is not made under section 18 for deduction of income tax at the time of payment" by s. 10 of the Finance Act, 1960, with effect from the 1st April, 1960.



part of his income to which that sub-section applies for the period which would be the previous year for an assessment for the year next following is less than the income on which he is required to pay tax and accordingly wishes to pay an amount less than the amount which he is so required to pay, he may send to the Income tax Officer an estimate of the tax payable by him calculated in the manner laid down in sub-section (1) on that part of his income for such period, and shall pay such amount as accords with his estimate in equal instalments on such of the dates specified in sub-section (1)(a) as have not expired or in one sum if only the last of such dates has not expired

Provided that the assessee may send a revised estimate of the tax payable by him before any one of the dates specified in sub-section (1)(a) and adjust any excess or deficiency in respect of any instalment already paid in a subsequent instalment or in subsequent instalments.

(3) Any person who has not hitherto been assessed shall, before the 15th day of March in each financial year, if his total income of the period which would be the previous year for an assessment for the financial year next following <sup>19</sup>[is likely to exceed the maximum amount not chargeable to tax in his case by two thousand five hundred rupees], send to the Income tax Officer an estimate of the tax payable by him on that part of his income <sup>20</sup>[which is not chargeable under the head 'Salaries'] of the said previous year calculated in the manner laid down in sub-section (1), and shall pay the amount, on such of the dates specified in that sub-section as have not expired, by instalments which may be revised according to the proviso to sub-section (2)

(4) Where part of the income to which sub-section (1), (2) or (3) applies consists of any income of the nature of commission which is receivable periodically and is not received or adjusted by the payer in the assessee's account before any of the quarterly instalments of tax become due, he may defer payment of tax on that part of his income to the date on which such income would be normally received or adjusted and if he does so he shall communicate to the Income tax Officer the date to which such payment is deferred.

Provided that, if the tax of which the payment is deferred is not paid within fifteen days of the date on which such income or part thereof is received or adjusted by the payer in the assessee's account, the tax shall be payable with six per cent simple interest per annum from the date of such receipt or adjustment to the date of payment of the tax.

(5) <sup>21</sup>[The Central Government shall pay simple interest—

- (a) at two per cent per annum on any amount payable in accordance with the provisions of this section before the 1st day of April, 1955, and paid accordingly,
- (ii) at four per cent per annum on any amount payable in accordance with the provisions of this section after the 1st day of April, 1955, and paid accordingly.]

<sup>19</sup> Substituted for "is likely to exceed six thousand rupees" by s. 15 of the Indian Income Tax (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952.

<sup>20</sup> Substituted for "to which the provisions of section 18 do not apply" by s. 10 of the Finance Act, 1960, with effect from the 1st April, 1960.

<sup>21</sup> Substituted for "The Central Government shall pay on any amount paid under this section simple interest at two per cent per annum" by s. 14 of the Finance Act, 1955, with effect from the 1st April, 1955.

from the date of payment <sup>22</sup>[to the date of the provisional assessment made under section 23B, or if no such assessment has been made,] to the date of the assessment (hereinafter called the "regular assessment") made under section 23 of the income, profits and gains of the previous year for an assessment for the year next following the year in which the amount was payable

Provided that on any portion of such amount which is refunded under the foregoing provisions of this section interest shall be payable only up to the date on which the refund was made

<sup>23</sup>[Provided further that for any period beginning with the 1st day of April, 1952, interest shall be payable only on the amount by which the aggregate sum of any instalments paid during any financial year in which they are payable under this section exceeds the amount of the tax determined on regular assessment calculated as hereunder—

- (i) in respect of such instalments paid in any financial year before the said date, from the said date to the date of the regular assessment,
- (ii) in respect of such instalments paid after the said date, from the beginning of the financial year next following to the date of the regular assessment ]

(6) Where in any year an assessee has paid tax under sub section (2) or sub-section (3) on the basis of his own estimate, and the tax so paid is less than eighty per cent of the tax determined on the basis of the <sup>24</sup>[regular assessment (reduced by the amount of tax deductible in accordance with the provisions of section 18 on any income, other than income chargeable under the head "Salaries", included in such assessment), so far as such tax relates to income other than income chargeable under the head "Salaries"] and so far as it is not due to variations in the rates of tax made by the Finance Act enacted for the year for which the regular assessment is made, simple interest at the rate of six per cent per annum from the 1st day of January in the financial year in which the tax was paid up to the date of the said regular assessment shall be payable by the assessee upon the amount by which the tax so paid falls short of the said eighty per cent

<sup>25</sup>[Provided that for any period after the 31st day of March, 1952, interest shall be payable at the rate of four per cent per annum ]

<sup>1</sup>[Provided <sup>25</sup>[further] that where a provisional assessment is made under section 23B, interest shall be calculated in accordance with the foregoing provision up to the date on which the tax as provisionally assessed is paid, and thereafter interest shall be calculated at the rate aforesaid on the amount by which the tax as so assessed (in so far as it relates to income <sup>26</sup>[other than income chargeable under the head "Salaries"] ) falls short of the said eighty per cent ]

<sup>22</sup> Inserted by s 16 of the Taxation Laws (Extension to Merged States and Amendment) Act, 1949 (67 of 1949)

<sup>23</sup> Inserted by s 13 of the Indian I T (Amendment) Act, 1953 (2 of 1953), with effect from the 1st April, 1952

<sup>24</sup> Substituted for 'regular assessment so far as such tax relates to income to which the provisions of section 18 do not apply' by s 10 of the Finance Act, 1960 with effect from the 1st April, 1960

<sup>25</sup> Inserted by s 13 of the Indian I T (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April 1952

<sup>1</sup> Inserted by s 16 of the Taxation Laws (Extension to Merged States and Amendment) Act 1949 (67 of 1949)

<sup>26</sup> Substituted for 'to which the provisions of s 18 do not apply' by s 10 of the Finance Act 1960 with effect from the 1st April 1960

Provided <sup>1</sup>[also] that, where, as a result of an appeal under section 31 **Div 1** or section 33 or of a revision under section 33A or of a reference to the **S. 18A** High Court under section 66, the amount on which interest was payable under this sub-section has been reduced the interest shall be reduced accordingly and the excess interest paid, if any, shall be refunded together with the amount of income-tax that is refundable

Provided further that, where a business, profession or vocation is newly set up and is assessable on the income, profits and gains of its first previous year in the financial year following that in which it is set up, the interest payable shall be computed from the 1st day of April of the said financial year

<sup>25</sup>[Provided further that in such cases and under such circumstances as **(R 48)** may be prescribed, the Income-tax Officer may reduce or waive the interest payable by the assessee ]

(7) Where, on making the regular assessment, the Income tax Officer finds that any assessee has—

- (a) under sub-section (2) or sub section (3) underestimated the tax payable by him and thereby reduced the amount payable in any of the first three instalments, or
- (b) under sub-section (4) wrongly deferred the payment of tax on a part of his income,

he may direct that the assessee shall pay simple interest at six per cent per annum, in the case referred to in clause (a) for the period during which the payment was deficient on the difference between the amount paid in each such instalment and the amount which should have been paid having regard to the aggregate tax actually paid under this section during the year, and in the case referred to in clause (b) for the period during which the payment of tax was wrongly deferred on the amount of which the payment was so deferred

Provided that for the purposes of this sub-section any instalment due before the expiry of six months from the commencement of the previous year in respect of which it is to be paid shall be deemed to have become due fifteen days after the expiry of the said six months

(8) Where, on making the regular assessment, the Income tax Officer finds that no payment of tax has been made in accordance with the foregoing provisions of this section, interest calculated in the manner laid down in sub section (6) shall be added to the tax as determined on the basis of the regular assessment

(9) If the Income-tax Officer, in the course of any proceedings in connection with the regular assessment, is satisfied that any assessee—

- (a) has furnished under sub-section (2) or sub section (3) estimates of the tax payable by him which he knew or had reason to believe to be untrue, or
- (b) has without reasonable cause failed to comply with the provisions of sub section (3),

the assessee shall be deemed, in the case referred to in clause (a), to have deliberately furnished inaccurate particulars of his income, and in the case referred to in clause (b), to have failed to furnish the return of his total income, and the provisions of section 28, so far as may be, shall apply accordingly

Provided that the amount of penalty leviable shall, in the case referred to in clause (a), be a sum not exceeding one and-a-half times the amount by which the tax actually paid during the year under the provisions of this section falls short of the tax that should have been paid by the assessee under sub section (1) or eighty per cent of the tax determined on the basis of the regular assessment as modified in the manner provided in sub section (6), whichever is the less, and, in the case referred to in clause (b), one and a half times the said eighty per cent

(10) (a) If any assessee does not pay on the specified dates any instalment of tax that he is required to pay under sub section (1) and does not, before the date on which any such instalment as is not paid becomes due, send under sub section (2) an estimate or a revised estimate of the tax payable by him, he shall be deemed to be an assessee in default in respect of such instalment or instalments

(b) If any assessee has sent under sub section (2) or sub-section (3) an estimate or a revised estimate of the tax payable by him, but does not pay any instalment in accordance therewith on the date or dates specified in sub section (1), he shall be deemed to be an assessee in default in respect of such instalment or instalments

Provided that the assessee shall not, under clause (a) or (b), be deemed to be in default in respect of any amount of which the payment is deferred under sub section (1) until after the date communicated by him to the Income tax Officer under that sub section

(11) Any sum other than a penalty or interest paid by or recovered from an assessee in pursuance of the provisions of this section shall be treated as a payment of tax in respect of the income of the period which would be the previous year for an assessment for the financial year next following the year in which it was payable, and credit therefor shall be given to the assessee in the regular assessment ]

<sup>3</sup>[(12) Any income chargeable under the head "Capital gains" shall not be taken into account for any of the purposes of this section ]

<sup>4</sup>[19 Payment in other cases—In the case of income in respect of which provision is not made under section 18 for deduction of income tax at the time of payment, and in any case where income tax has not been deducted in accordance with the provisions of section 18, income tax shall be payable by the assessee direct ]

<sup>3D</sup>, <sup>3</sup>[19A Supply of information regarding dividends—The principal officer of every company <sup>6</sup>[which is an Indian company or a company which has made such effective arrangements as may be prescribed for the declaration and payment of dividends in <sup>7</sup>[the taxable territories]] shall, on or before the 15th day of June in each year, furnish to the prescribed officer a return in the prescribed form and verified in the prescribed manner of the names and of the addresses, as entered in the register of shareholders maintained by the company, of the shareholders to whom a dividend or aggregate dividends exceeding such amount as may be prescribed in this behalf has or have been distributed during the preceding year and of the amount so distributed to each such shareholder ]

<sup>3</sup> Inserted by s 9 of the I T and E P T (Amendment) Act 1947 (22 of 1947)

<sup>4</sup> Substituted by s 21 of the Indian I T (Amendment) Act 1939 (7 of 1939)

<sup>6</sup> Inserted by s 2 of the Indian I T (Amendment) Act, 1926 (24 of 1926)

<sup>7</sup> Inserted by s 8 of the Indian Finance Act, 1948 (20 of 1948)

<sup>8</sup> Substituted for "British India" by the Adaptation of Laws Order, 1950

(2) In the case of any person <sup>13</sup> \* \* \* whose total income is, in the Income tax Officer's opinion, of such an amount as to render such person liable to income tax, the Income tax Officer <sup>14</sup> [may serve] a notice upon him requiring him to furnish, within such period, not being less than thirty days, as may be specified in the notice, a return in the prescribed form and verified in the prescribed manner setting forth (along with such other particulars as may be provided for in the notice) his total income <sup>15</sup> [and total world income] during the previous year

<sup>15</sup> [Provided that the Income tax Officer may in his discretion extend the date for the delivery of the return]

<sup>16</sup> [(2A) If any person who has not been served with a notice under sub section (2) has sustained a loss of profits or gains in any year under the head "Profits and gains of business, profession or vocation", and such loss or any part thereof would ordinarily have been carried forward under sub section (2) of section 24, he shall, if he is to be entitled to the benefit of the carry forward of loss in any subsequent assessment, furnish within the time specified in the general notice given under sub section (1) or within such further time as the Income tax Officer in any case may allow, all the particulars required under the prescribed form of return of total income and total world income in the same manner as he would have furnished a return under sub section (1) had his income exceeded the maximum amount not liable to income tax in his case, and all the provisions of this Act shall apply as if it were a return under sub section (1)]

(3) If any person has not furnished a return within the time allowed by or under sub section (1) or sub section (2) or having furnished a return under either of those sub sections, discovers any omission or wrong statement therein, he may furnish a return or a revised return, as the case may be, at any time before the assessment is made <sup>17</sup> \* \* \*

(4) The Income tax Officer may serve <sup>18</sup> \* \* \* on any person <sup>19</sup> [who has made a return under sub section (1) or] upon whom a notice has been served under sub section (2) a notice requiring him, on a date to be therein specified, to produce, or cause to be produced, such accounts or documents as the Income tax Officer may require <sup>20</sup> [or to furnish in writing and verified in the prescribed manner information in such form and on such points or matters (including, with the previous approval of the Commissioner a statement of all assets and liabilities not included in the accounts) as the Income tax Officer may require for the purposes of this section]

Provided that the Income tax Officer shall not require the production of any accounts relating to a period more than three years prior to the previous year

<sup>21</sup> [(5) The prescribed form of the returns referred to in sub sections (1) and (2) shall, in the case of an assessee engaged in any business, profession or vocation, require him to furnish particulars of the location and style of

<sup>13</sup> "Other than a company" omitted by s 22 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>14</sup> Substituted for "shall serve", *ibid*

<sup>15</sup> Inserted, *ibid*

<sup>16</sup> Inserted by s 14 of the Indian I T (Amendment) Act, 1953 (25 of 1953) with effect from the 1st April, 1952

<sup>17</sup> "And any return so made shall be deemed to be a return made in due time under this section" omitted by s 24 of the Indian I T (Amendment) Act 1939 (7 of 1939)

<sup>18</sup> "On the principal officer of any company or" omitted *ibid*

<sup>19</sup> Inserted, *ibid*

<sup>20</sup> Inserted by s 14 of the Indian I T (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April 1952

<sup>21</sup> Inserted by s 24 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

the principal place wherein he carries on the business, profession or vocation and of any branches thereof, the names and addresses of his partners, if any, in such business, profession or vocation and the extent of the share of the assessee and the shares of all such partners in the profits of the business, profession or vocation and any branches thereof ] Div.  
Ss  
22,

**23 Assessment**—(1) If the Income-tax Officer is satisfied <sup>22</sup>[without requiring the presence of the assessee or the production by him of any evidence] that a return made under section 22 is correct and complete, he shall assess the total income of the assessee, and shall determine the sum payable by him on the basis of such return

(2) If the Income-tax Officer <sup>23</sup>[is not satisfied without requiring the presence of the person who made the return or the production of evidence that a return made under section 22 is correct and complete, he shall serve on such person] a notice requiring him, on a date to be therein specified, either to attend at the Income-tax Officer's office or to produce, or to cause to be there produced, any evidence on which such person may rely in support of the return

(3) On the day specified in the notice issued under sub-section (2), or as soon afterwards as may be, the Income-tax Officer, after hearing such evidence as such person may produce and such other evidence as the Income-tax Officer may require, on specified points, shall, by an order in writing, assess the total income of the assessee, and determine the sum payable by him on the basis of such assessment

(4) <sup>23</sup>[If any person fails to make the return required by any notice given under sub section (2) of section 22 and has not made a return or a revised return under sub-section (3) of the same section] or fails to comply with all the terms of a notice issued under sub-section (4) of the same section or, having made a return, fails to comply with all the terms of a notice issued under sub section (2) of this section, the Income-tax Officer shall make the assessment to the best of his judgment <sup>24</sup>[and determine the sum payable by the assessee on the basis of such assessment] <sup>25</sup>[and, <sup>1</sup>[in the case of a firm, may refuse to register it or may cancel its registration if it is already registered]]

<sup>2</sup>[Provided that the registration of a firm shall not be cancelled until fourteen days have elapsed from the issue of a notice by the Income-tax Officer to the firm intimating his intention to cancel its registration ]

<sup>3</sup>[(5) Notwithstanding anything contained in the foregoing sub-sections, when the assessee is a firm and the total income of the firm has been assessed under sub-section (1), sub-section (3) or sub section (4), as the case may be,—

(a) in the case of a registered firm, -

<sup>22</sup> Inserted by s 25, *ibid*

<sup>23</sup> Substituted for the original words, *ibid*

<sup>24</sup> Inserted, *ibid*

<sup>25</sup> The original words were inserted by s 3 of the Indian I T (Amendment) Act, 1930 (21 of 1930)

<sup>1</sup> Substituted for "in the case of a registered firm, may cancel its registration" by s 25 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>2</sup> Inserted by s 3 of the Indian I T (Amendment) Act, 1930 (21 of 1930)

<sup>3</sup> Inserted by s 25 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

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- 4[(i) the income-tax payable by the firm itself shall be determined, and
- (ii) the total income of each partner of the firm, including therein his share of its income, profits and gains of the previous year, shall be assessed and the sum payable by him on the basis of such assessment shall be determined ]

Provided that if such share of any partner is a loss it shall be set off against his other income or carried forward and set off in accordance with the provisions of section 24

Provided further that when any of such partners is a person not resident in <sup>6</sup>[the taxable territories], his share of the income, profits and gains of the firm shall be assessed on the firm at the rates which would be applicable if it were assessed on him personally, and the sum so determined as payable shall be paid by the firm

<sup>6</sup>[Provided also that if at the time of assessment of any partner of a registered firm, the Income tax Officer is of opinion that the partner is residing in Pakistan, the partner's share of the income, profits and gains of the firm shall be assessed on the firm in the manner laid down in the preceding proviso and the sum so determined as payable shall be paid by the firm, and]

- 7[(b) in the case of an unregistered firm, the Income-tax Officer may, instead of determining the sum payable by the firm itself, proceed to assess the total income of each partner of the firm, including therein his share of its income, profits and gains of the previous year, and determine the tax payable by each partner on the basis of such assessment, if, in the Income-tax Officer's opinion, the aggregate amount of the tax including super-tax, if any, payable by the partners under such procedure would be greater than the aggregate amount which would be payable by the firm and the partners individually, if separately assessed, and where the procedure specified in this clause is applied to any unregistered firm, the provisos to clause (a) of this sub section shall apply thereto as they apply in the case of a registered firm ]]

<sup>8</sup>[(6) Whenever the Income tax Officer makes a determination in accordance with the provisions of sub section (5), he shall notify to the firm by an order in writing the amount of the total income on which the determination has been based and the apportionment thereof between the several partners ]

<sup>4</sup> Substituted for " the sum payable by the firm itself shall not be determined but the total income of each partner of the firm, including therein his share of its income, profits and gains of the previous year, shall be assessed and the sum payable by him on the basis of such assessment shall be determined " by s 14 of the Finance Act, 1956, with effect from the 1st April, 1956

<sup>5</sup> Substituted for " British India " by the Adaptation of Laws Order, 1950

<sup>6</sup> Inserted by the India (Adaptation of Income tax, Profits Tax and Revenue Recovery Acts) Order, 1947 (G G O 31)

<sup>7</sup> Substituted by s 14 of the Finance Act, 1956, with effect from the 1st April, 1956

<sup>8</sup> Inserted by s 12 of the Indian I T (Amendment) Act, 1941 (23 of 1941)

<sup>9</sup>[23A Power to assess companies to super-tax on undistributed Div income in certain cases—<sup>10</sup>(1) Where the Income-tax Officer is satisfied S 2C that in respect of any previous year the profits and gains distributed as dividends by any company within the twelve months immediately following the expiry of that previous year are less than the statutory percentage of the total income of the company of that previous year as reduced by—

- (a) the amount of income-tax and super-tax payable by the company in respect of its total income, but excluding the amount of any super-tax payable under this section,
- (b) the amount of any other tax levied under any law for the time being in force on the company by the Government or by a local authority in excess of the amount, if any, which has been allowed in computing the total income, and
- (c) in the case of a banking company, the amount actually transferred to a reserve fund under section 17 of the Banking Companies Act, 1949 (X of 1949),

the Income-tax Officer shall, <sup>11</sup>[unless he is satisfied—

- (i) that, having regard to the losses incurred by the company in earlier years or to the smallness of the profits made in the previous year, the payment of a dividend or a larger dividend than that declared would be unreasonable, or
- (ii) that the payment of a dividend or a larger dividend than that declared would not have resulted in a benefit to the revenue],<sup>12</sup>[or]
- <sup>12</sup>[(iii) that at least seventy-five per cent of the share capital of the company is throughout the previous year beneficially held by an institution or fund established in the taxable territories for a charitable purpose the income whereof is exempt under clause (i) of sub section (3) of section 4,]

make an order in writing that the company shall, apart from the sum determined as payable by it on the basis of the assessment under section 23, be liable to pay super-tax at the rate of fifty per cent in the case of a company whose business consists wholly or mainly in the dealing in or holding of investments, and at the rate of thirty-seven per cent in the case of any other company on the undistributed balance of the total income of the previous

<sup>9</sup> Substituted by s 15 of the Finance Act, 1955, with effect from the 1st April, 1955

"For the removal of doubts, it is hereby declared that the provisions of section 23A of the Income tax Act, as in force immediately before the 1st day of April, 1955, shall continue to apply to a company in respect of its profits and gains of a previous year relevant to any assessment year prior to the assessment year ending on the 31st day of March, 1956, and also to its shareholders referred to in sub section (1) of section 23A as then in force in respect of their appropriate previous years, notwithstanding that the relevant assessment years in respect of such previous years end on or after the 31st day of March, 1956"—S 20(4) of the Finance Act, 1955

<sup>10</sup> Substituted for the original sub secs (1) and (2) by s 7 of the Finance (No 2) Act, 1957, with effect from the 1st April, 1957

"For the removal of doubts, it is hereby declared that the provisions of section 23A of the Income tax Act, as in force immediately before the 1st day of April, 1957, shall continue to apply to a company in respect of its profits and gains of a previous year relevant to any assessment year prior to the assessment year ending on the 31st day of March, 1958"—S 11(4) of the Finance (No 2) Act, 1957

<sup>11</sup> Substituted for "unless he is satisfied that, having regard to the losses incurred by the company in earlier years or to the smallness of the profits made in the previous year, the payment of a dividend or a larger dividend than that declared would be unreasonable", by s 9 of the Finance Act, 1958, with effect from the 1st April, 1958

<sup>12</sup> Inserted by s 8 of the Finance Act, 1961, with effect from the 1st April, 1960



year, that is to say, on the total income as reduced by the amounts, if any, referred to in clause (a), clause (b) or clause (c) and the dividends actually distributed, if any

(2) No order under sub section (1) shall be made,—

- (a) in the case of a company whose business consists wholly or mainly in the dealing in or holding of investments which has distributed not less than <sup>13</sup>[eighty] per cent of its total income as reduced by the amounts, if any, referred to in clause (a), clause (b) or clause (c) of sub section (1), or
- (ii) in the case of any other company whose distribution falls short of the statutory percentage by not more than five per cent of its total income as reduced by the amounts, if any, aforesaid, or
- (iii) in any case where according to the return made by a company under section 22 it has distributed not less than the statutory percentage of its total income as reduced by the amounts, if any, aforesaid, but in the assessment made by the Income-tax Officer under section 23 a higher total income is arrived at and the difference in the total income does not arise out of the application of the proviso to section 13 or sub section (4) of section 23 or the omission by the company to disclose its income fully and truly,

unless the company, on receipt of a notice from the Income-tax Officer that he proposes to make such an order, fails to make within three months of the receipt of such notice a further distribution of its profits and gains so that the total distribution made is not less than the statutory percentage of the total income of the company as reduced by the amounts, if any, aforesaid ]

(3)—(7)<sup>14\*</sup>

\* \* \* \* \*

(8) <sup>15\*</sup> \* \* No order shall be made by the Income-tax Officer under sub section (1) unless the previous approval of the Inspecting Assistant Commissioner of Income tax has been obtained, and the Inspecting Assistant Commissioner shall not give his approval to any order proposed to be made by the Income-tax Officer until he has given the company concerned an opportunity of being heard

(9) Nothing contained in this section shall apply to any company in which the public are substantially interested or to a subsidiary company of such company if the whole of the share capital of such subsidiary company has been held by the parent company or by its nominees throughout the previous year

<sup>16</sup>[Explanation 1]—For the purposes of this section, a company shall be deemed to be a company in which the public are substantially interested—

- (a) if it is a company owned by the Government or in which not less than forty per cent of the shares are held by the Government,
- (b) if it is not a private company as defined in the Indian Companies Act, 1913 (VII of 1913), and

<sup>13</sup> Substituted for "ninety" by s 11 of the Finance Act, 1960, with effect from the 1st April, 1960

<sup>14</sup> Omitted by s 7 of the Finance (No 2) Act, 1957, with effect from the 1st April, 1957 (See also fn 10 above)

<sup>15</sup> "Except in cases where a decision is given by the Commissioner of Income tax under sub section (3) or the Board of Referees under sub section (4)", omitted, *ibid*, with effect from the 1st April, 1957

<sup>16</sup> The Explanation was numbered "1", *ibid*, with effect from the 1st April, 1957

- (i) its shares (not being shares entitled to a fixed rate of dividend, whether with or without a further right to participate in profits) carrying not less than fifty per cent of the voting power have been allotted unconditionally to, or acquired unconditionally by, and were throughout the previous year beneficially <sup>17</sup>[held by the Government or a corporation established by a Central, State or Provincial Act or the public] (not including a company to which the provisions of this <sup>18</sup>[section] apply) Div S 7

Provided that in the case of any such company as is referred to in <sup>19</sup>[clause (i) of *Explanation 2*], this sub-clause shall apply as if for the words "not less than fifty per cent", the words "not less than forty per cent" had been substituted,

- (ii) the said shares were at any time during the previous year the subject of dealings in any recognised stock exchange in India or were freely transferable by the holder to other members of the public, and
- (iii) the affairs of the company or the shares carrying more than fifty per cent of the total voting power were at no time during the previous year controlled or held by less than six persons, <sup>20</sup>[and in computing the number of six persons aforesaid, the Government or any corporation established by a Central, State or Provincial Act or a company to which the provisions of this section do not apply shall not be taken into account, and persons who are relatives of one another and persons who are nominees of any other person together with that other person shall be treated as a single person, the expression "relative" in this context meaning husband, wife, lineal ascendant or descendant, brother or sister]

Provided that in the case of any such company as is referred to in <sup>21</sup>[clause (i) of *Explanation 2*], this clause shall apply as if for the words "more than fifty per cent", the words "more than sixty per cent" had been substituted]

<sup>22</sup>[*Explanation 2* —For the purposes of this section, statutory percentage means,—

- (i) in the case of a company whose business consists wholly or mainly in the dealing in or holding of investments <sup>23</sup>[90%]
- (ii) in the case of an Indian company whose business consists wholly in the manufacture or processing of

<sup>17</sup> Substituted for "held by the public", *ibid*, with effect from the 1st April, 1957 (See also f n 10 above)

<sup>18</sup> Substituted for "sub section" by s 15 of the Finance Act, 1956, with effect from the 1st April, 1956

<sup>19</sup> Substituted for "sub section (4)" by s 7 of the Finance (No 2) Act, 1957, with effect from the 1st April, 1957

<sup>20</sup> Substituted for "(persons who are related to one another as husband, wife, lineal ascendant or descendant, brother or sister, as the case may be, being treated as a single person and persons who are nominees of another person together with that other person being likewise treated as a single person)", *ibid*, with effect from the 1st April, 1957 (See also f n 10 above)

<sup>21</sup> Substituted for "sub section (4)", *ibid*, with effect from the 1st April, 1957

<sup>22</sup> Inserted, *ibid*, with effect from the 1st April, 1957 (See also f n 10 above)

<sup>23</sup> Substituted for "90 %" by s 11 of the Finance Act, 1960, with effect from the 1st April, 1960

goods or in mining or in the generation or distribution of electricity or any other form of power

<sup>24</sup>[50%]

(iii) in the case of an Indian company, a part only of whose business consists in any of the activities specified in clause (i)—

(a) in relation to the said part of the company's business

<sup>24</sup>[50%]

(b) in relation to the remaining part of the company's business—

(1) if it is a company which satisfies the conditions specified in sub clause (a) of clause (iv)

90%

(2) in any other case

<sup>25</sup>[65%]

the said percentages being applied separately with reference to the amounts of profits and gains attributable to the two parts of the company's business aforesaid as if the said amounts were respectively the total income of the company in relation to each of its parts, the amount of dividends and taxes also being similarly apportioned, for the purposes of sub-section (1)

(iv) in the case of any other company not referred to in the preceding clauses,—

(a) where the accumulated profits and reserves (including the amounts capitalised from the earlier reserves) representing accumulations of past profits which have not been the subject of an order under sub-section (1) exceed—either the aggregate of—

(1) the paid-up capital of the company exclusive of the capital, if any, created out of its profits and gains which have not been the subject of an order under sub section (1),

(2) any loan capital which is the property of the shareholders,

or the actual cost of the fixed assets of the company, whichever of these is greater

90%

(b) where sub clause (a) does not apply

<sup>25</sup>[65%]

i) <sup>1</sup>[23B Power to make provisional assessment in advance of regular assessment—(1) The Income-tax Officer may, at any time after the receipt of a return made under section 22, proceed to make in a summary manner, a provisional assessment of the tax payable by the assessee, on the basis of his return and the accounts and documents, if any, accompanying it, after giving due effect to (i) the allowance referred to in paragraph (b) of the proviso to clause (vi) of sub-section (2) of section 10, and (ii) any loss carried forward under sub-section (2) of section 24

<sup>1</sup> Substituted for "45 %" by s 11 of the Finance Act, 1959, with effect from the 1st April 1960

<sup>25</sup> Substituted for "60 %", *ibid*, with effect from the 1st April 1960

<sup>1</sup> Inserted by s 17 of the Taxation Laws (Extension to Merged States and Amendment) Act, 1949 (67 of 1949)

(2) A partner of a firm may be provisionally assessed under sub-section (1) in respect of his share in the firm's income, profits and gains, if its return has been received, although the return of the partner himself may not have been received Div  
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(3) A firm may be provisionally assessed under sub-section (1) as if it were an unregistered firm, unless the firm fulfils such conditions as the Central Government may, by notification in the Official Gazette, specify in that behalf

(4) There shall be no right of appeal against a provisional assessment made under sub section (1)

(5) For the avoidance of doubt, it is hereby declared that the provisions of section 45 (except the first proviso) and section 46 apply in relation to any tax payable in pursuance of a provisional assessment made under sub section (1) as if it were a regular assessment made under section 23

(6) Income-tax paid <sup>2\*</sup> \* \* \* under section 18 or section 18A in respect of any income provisionally assessed under sub section (1), shall be deemed to have been paid towards the provisional assessment

(7) After a regular assessment has been made under section 23, any amount paid or deemed to have been paid towards a provisional assessment made under sub-section (1), shall be deemed to have been paid towards the regular assessment, and where the amount paid or deemed to have been paid towards the provisional assessment, exceeds the amount payable under the regular assessment, the excess shall be refunded to the assessee

(8) Nothing done or suffered by reason or in consequence of any provisional assessment made under this section shall prejudice the determination on the merits, of any issue which may arise in the course of the regular assessment under section 23 ]

**24 Set off of loss in computing aggregate income**—(1) Where any assessee sustains a loss of profits or gains in any year under any of the heads mentioned in section 6, he shall be entitled to have the amount of the loss set off against his income, profits or gains under any other head in that year

3\*                      \*                      \*                      \*

<sup>4</sup>[Provided <sup>3\*</sup> that in computing the profits and gains chargeable under the head "Profits and gains of business, profession or vocation", any loss sustained in speculative transactions which are in the nature of a business shall not be taken into account except to the extent of the amount of profits and gains, if any, in any other business consisting of speculative transactions ]

<sup>5</sup>[Provided <sup>6</sup>[further] that where the assessee is an unregistered firm which has not been assessed under the provisions of clause (b) of sub section (5)

<sup>3</sup> "Or deemed to have been paid" omitted by s 12 of the Finance Act, 1959, with effect from the 1st April, 1960. However, in relation to dividends declared or payable by a company in respect of the previous year relevant to the assessment year 1960-61 the omission shall have effect on and from the 1st April, 1959 (See s 3 of the Finance Act, 1960)

<sup>4</sup> The proviso and "further" omitted by s 2 and Schedule of the Taxation Laws (Extension to Jammu and Kashmir) Act, 1954 (41 of 1954)

<sup>5</sup> Inserted by s 3 of the Finance Act, 1953 (14 of 1953), with effect from the 1st April, 1953

<sup>6</sup> Inserted by s 27 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>7</sup> Inserted by s 6 of the Indian I T (Amendment) Act, 1944 (11 of 1944)

of section 23, \* \* \* any such loss shall be set off only against the income, profits and gains of the firm and not against the income, profits and gains of any of the partners of the firm, and where the assessee is a registered firm, any loss which cannot be set off against other income, profits and gains of the firm shall be apportioned between the partners of the firm and they alone shall be entitled to have the amount of the loss set off under this section ]

<sup>8</sup>[*Explanation 1*—Where the speculative transactions carried on are of such a nature as to constitute a business, the business shall be deemed to be distinct and separate from any other business]

*Explanation 2*—A speculative transaction means a transaction in which a contract for purchase and sale of any commodity including stocks and shares is periodically or ultimately settled otherwise than by the actual delivery or transfer of the commodity or scrips

Provided that for the purposes of this section,—

- (a) a contract in respect of raw materials or merchandise entered into by a person in the course of his manufacturing or merchanting business to guard against loss through future price fluctuations in respect of his contracts for actual delivery of goods manufactured by him or merchandise sold by him, or
- (b) a contract in respect of stocks and shares entered into by a dealer or investor therein to guard against loss in his holdings of stocks and shares through price fluctuations, or
- (c) a contract entered into by a member of a forward market or a stock exchange in the course of any transaction in the nature of jobbing or arbitrage to guard against loss which may arise in the ordinary course of his business as such member,

shall not be deemed to be a speculative transaction ]

<sup>9</sup>[(2) <sup>10</sup>Where any assessee sustains a loss of profits or gains in any year, being a previous year not earlier than the previous year for the assessment for the year ending on the 31st day of March, 1940, in any business, profession or vocation, and the loss cannot be wholly set off under sub-section (1), so much of the loss as is not so set off or the whole loss where the assessee had no other head of income shall be carried forward to the following year, and

(i) where the loss was sustained by him in a business consisting of speculative transactions, it shall be set off only against the profits and gains, if any, of any business in speculative transactions carried on by him in that year,

(ii) where the loss was sustained by him in any other business, profession or vocation, it shall be set off against the profits and gains, if any, of any business, profession or vocation carried on by him in that year provided that the business, profession or vocation in which the loss was originally sustained continued to be carried on by him in that year, and

<sup>7</sup> "In the manner applicable to a registered firm" omitted by s. 16 of the Finance Act, 1956 with effect from the 1st April, 1956

<sup>8</sup> Inserted by s. 3 of the Finance Act, 1953 (14 of 1953), with effect from the 1st April, 1953

<sup>9</sup> Sub secs (2) and (3) were substituted for the original sub sec (2) by s. 27 of the Indian I T (Amendment) Act 1939 (7 of 1939)

<sup>10</sup> Substituted by s. 16 of the Finance Act, 1955, with effect from the 1st April, 1955

(iii) if the loss in either case cannot be wholly so set off, the amount of loss not so set off shall be carried forward to the following year and so on <sup>11</sup>[but no loss shall be so carried forward for more than eight years] ] Div. S 4

<sup>12</sup>[Provided that—

(a) 13\* \* \* \*

(b) where depreciation allowance is, under clause (b) of the proviso to clause (vi) of sub-section (2) of section 10, also to be carried forward, effect shall first be given to the provisions of this sub-section,]

<sup>14</sup>[(c)] nothing herein contained shall entitle any assessee, being a registered firm, to have carried forward and set off any loss which has been apportioned between the partners, under the proviso to sub-section (1), or entitle any assessee, being a partner in an unregistered firm which has not been assessed under the provisions of clause (b) of sub-section (5) of section 23 <sup>15</sup>\* \* \*, to have carried forward and set off against his own income any loss sustained by the firm,

<sup>16</sup>[(d)] where an unregistered firm is assessed <sup>17</sup>\* \* \* under clause (b) of sub-section (5) of section 23, during any year, its losses shall also be carried forward and set off under this section as if it were a registered firm,

<sup>18</sup>[(e)] where a change has occurred in the constitution of a firm, nothing in this section shall be deemed to entitle the firm to have set off so much of the loss proportionate to the share of a retired or deceased partner computed in accordance with the provisions of clause (b) of sub-section (1) of section 16 as exceeds his share of profits, if any, of the previous year in the firm, or to entitle any partner to the benefit of any portion of the said loss which is not apportionable to him under the said clause (b), and where any person carrying on any business, profession or vocation has been succeeded in such capacity by another person, otherwise than by inheritance, nothing in this section shall be deemed to

<sup>11</sup> Inserted by s 8 of the Finance (No 2) Act, 1957, with effect from the 1st April, 1957

<sup>12</sup> The words "provided that" and the original cl (a) (which was relettered as cl "(b)" by s 6 of the Indian I T (Amendment) Act, 1944 (11 of 1944)) were inserted by s 13 of the Indian I T (Amendment) Act, 1941 (23 of 1941). Effect is not to be given to this amendment in the making of any assessment for any year before the year ending 31st March, 1943

<sup>13</sup> Omitted by s 2 and Schedule of the Taxation Laws (Extension to Jammu and Kashmir) Act, 1954 (41 of 1954)

<sup>14</sup> "(b)" was substituted for "provided that" by s 13 of the Indian I T (Amendment) Act, 1941 (23 of 1941), and "(c)" was substituted for "(b)" by s 6 of the Indian I T (Amendment) Act, 1944 (11 of 1944)

<sup>15</sup> "In the manner applicable to a registered firm" omitted by s 16 of the Finance Act, 1956, with effect from the 1st April, 1956

<sup>16</sup> "(c)" was substituted for "provided further that" by s 13 of the Indian I T (Amendment) Act, 1941 (23 of 1941), and "(d)" was substituted for "(c)" by s 6 of the Indian I T (Amendment) Act, 1944 (11 of 1944)

<sup>17</sup> "As a registered firm" omitted by s 16 of the Finance Act, 1956, with effect from the 1st April, 1956

<sup>18</sup> The original cl (d) was substituted for the third proviso by s 13 of the Indian I T (Amendment) Act, 1941 (23 of 1941), and was relettered "(e)" by s 6 of the Indian I T (Amendment) Act, 1944 (11 of 1944)

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entitle any person other than the person incurring the loss to have it set off against his income, profits or gains.]

<sup>19</sup>[(f) a loss arising in the previous years for the assessment for the years ending on the 31st day of March of the years 1940, 1941, 1942, 1943 and 1944 shall be carried forward for one, two, three, four and five years respectively, and a loss arising in the previous years for the assessment for the years ending on the 31st day of March of the years 1945, 1946, 1947, 1948 and 1949 shall be carried forward for six years, and such loss shall be set off only against the profits and gains, if any, of the assessee from the same business, profession or vocation]

<sup>20</sup>[(2A) Notwithstanding anything contained in sub section (1), where the loss sustained is a loss falling under the head "Capital gains", such loss shall not be set off except against any profits and gains falling under that head]

(2B) Where an assessee sustains a loss such as is referred to in sub section (2A) and the loss cannot be wholly set off in accordance with the provisions of that sub section, the portion not so set off shall be carried forward to the following year and set off against capital gains for that year, and if it cannot be so set off, the amount thereof not so set off shall be carried forward to the following year and so on, <sup>21</sup>[so however that no such loss shall be carried forward for more than eight years]

<sup>22</sup>[Provided that where the loss sustained by an assessee, not being a company, in any previous year does not exceed five thousand rupees, it shall not be carried forward]]

(3) When, in the course of the assessment of the total income of any assessee, it is established that a loss of profits or gains has taken place which he is entitled to have set off under the provisions of this section, the Income tax Officer shall notify to the assessee by order in writing the amount of the loss as computed by him for the purposes of this section]

<sup>23</sup>[24A Assessment in case of departure from <sup>24</sup>[the taxable territories]—(1) When it appears to the Income tax Officer that any person may leave <sup>24</sup>[the taxable territories] during the current financial year or shortly after its expiry, and that he has no present intention of returning, the Income-tax Officer may proceed to assess him on his total income <sup>25</sup>[of the period from the expiry of the last previous year of which the income has been assessed in his hands to the probable date of his departure from <sup>24</sup>[the taxable territories], or where he has not been previously assessed, on his total income of the period up to the probable date of his departure from <sup>24</sup>[the taxable territories]] The assessment shall be made on the total income of each completed previous year included in such period at the

<sup>19</sup> Inserted by s 16 of the Finance Act, 1975, with effect from the 1st April, 1955

<sup>20</sup> Inserted by s 10 of the I T and E P T (Amendment) Act, 1947 (22 of 1947)

<sup>21</sup> The words "so however that no such loss shall be so carried forward for more than six years" were omitted by s 7 of the Finance (No 3) Act, 1956 with effect from the 1st April, 1957 and the present words were inserted by s 8 of the Finance (No 2) Act 1957, with effect from the 1st April, 1957

<sup>22</sup> Substituted by s 7 of the Finance (No 3) Act, 1956, with effect from the 1st April 1957

<sup>23</sup> Inserted by s 11 of the Indian I T (Second Amendment) Act, 1933 (18 of 1933)

<sup>24</sup> Substituted for "British India" by the Adaptation of Laws Order 1950

<sup>25</sup> Substituted for the original words by s 28 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

rate at which such income would have been charged had it been fully assessed, and as respects the period from the expiry of the last of such completed previous years to the probable date of departure the Income tax Officer shall estimate the total income of such person during such period and assess it at the rate in force for the financial year in which such assessment is made]

Div  
Ss  
24A,  
24B

Provided that nothing herein contained shall authorise an Income tax Officer to assess any income, profits or gains which have escaped assessment<sup>1</sup> [or have been under-assessed, or have been assessed at too low a rate, or have been the subject of excessive relief under this Act but] in respect of which he is debarred from issuing a notice under section 34

(2) For the purpose of making an assessment under sub section (1) the Income-tax Officer may serve a notice upon such person requiring him to furnish, within such time not being less than seven days as may be specified in the notice, a return in the same form and verified in the same manner as a return under sub-section (2) of section 22, setting forth (along with such other particulars as may be provided for in the notice) his total income for each of the completed previous years<sup>2</sup> [comprised in the relevant period referred to in the first sentence of] sub-section (1) and his estimated total income for the period from the expiry of the last such completed previous year to the probable date of his departure, and the provisions of this Act shall, so far as may be, apply as if the notice were a notice issued under sub-section (2) of section 22 ]

<sup>3</sup>[24B Tax of deceased person payable by representative —(1) Where a person dies, his executor, administrator or other legal representative shall be liable to pay out of the estate of the deceased person to the extent to which the estate is capable of meeting the charge the tax assessed as payable by such person, or any tax which would have been payable by him under this Act if he had not died

<sup>4</sup>[(2) Where a person dies before the publication of the notice referred to in sub-section (1) of section 22 or before he is served with a notice under sub-section (2) of section 22 or section 34, as the case may be, his executor, administrator or other legal representative shall, on the serving of the notice under sub section (2) of section 22 or under section 34, as the case may be, comply therewith, and the Income-tax Officer may proceed to assess the total income of the deceased person as if such executor, administrator or other legal representative were the assessee ]

(3) Where a person dies, without having furnished a return which he has been required to furnish under the provisions<sup>5</sup> \* \* \* of section 22, or having furnished a return which the Income-tax Officer has reason to believe to be incorrect or incomplete, the Income-tax Officer may make an assessment of the total income of such person and determine the tax payable by him on the basis of such assessment, and for this purpose may,<sup>6</sup> [by the issue of the appropriate notice which would have had to be served upon the deceased person had he survived,] require from the executor, administrator or other legal representative of the deceased person any accounts, documents or other evidence which he might under the provisions of sections 22 and 23 have required from the deceased person ]

<sup>1</sup> Substituted for " or have been assessed at too low a rate ", *ibid*

<sup>2</sup> Substituted for " comprised in the period first referred to in ", *ibid*

<sup>3</sup> Inserted by s 11 of the Indian I T (Second Amendment) Act, 1933 (18 of 1933)

<sup>4</sup> Substituted by s 29 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>5</sup> " Of sub section (2) " omitted, *ibid*

<sup>6</sup> Inserted, *ibid*



1      25 Assessment in case of discontinued business —(1) Where any  
5 business, profession or vocation <sup>7</sup>[to which sub section (3) is not appli-  
cable], is discontinued in any year, an assessment may be made in that year  
on the basis of the income, profits or gains of the period between the end  
of the previous year and the date of such discontinuance in addition to  
the assessment, if any, made on the basis of the income, profits or gains of  
the previous year

(2) Any person discontinuing any such business, profession or vocation  
shall give to the Income-tax Officer notice of such discontinuance within  
fifteen days thereof, and, where any person fails to give the notice required  
by this sub section, the Income-tax Officer may direct that a sum shall be  
recovered from him by way of penalty not exceeding the amount of tax  
subsequently assessed on him in respect of any income, profits or gains of  
the business, profession or vocation up to the date of its discontinuance

(3) Where any business, profession or vocation <sup>8\*</sup> \* on which tax  
was at any time charged under the provisions of the Indian Income tax Act,  
1918 (VII of 1918), is discontinued, <sup>9</sup>[then, unless there has been a succes-  
sion by virtue of which the provisions of sub section (4) have been rendered  
applicable] no tax shall be payable in respect of the income, profits and  
gains of the period between the end of the previous year and the date  
of such discontinuance, and the assessee may further claim that the income,  
profits and gains of the previous year shall be deemed to have been the  
income, profits and gains of the said period Where any such claim is  
made, an assessment shall be made on the basis of the income, profits and  
gains of the said period, and if an amount of tax has already been paid  
in respect of the income, profits and gains of the previous year exceeding  
the amount payable on the basis of such assessment, a refund shall be  
given of the difference

<sup>10</sup>[(4) Where the person who was at the commencement of the Indian  
Income-tax (Amendment) Act, 1939 (VII of 1939), carrying on any busi-  
ness, profession or vocation on which tax was at any time charged under  
the provisions of the Indian Income-tax Act, 1918, is succeeded in such  
capacity by another person, the change not being merely a change in the  
constitution of a partnership, no tax shall be payable by the first men-  
tioned person in respect of the income, profits and gains of the period  
between the end of the previous year and the date of such succession, and  
such person may further claim that the income, profits and gains of the  
previous year shall be deemed to have been the income, profits and gains  
of the said period Where any such claim is made, an assessment shall  
be made on the basis of the income, profits and gains of the said period,  
and, if an amount of tax has already been paid in respect of the income,  
profits and gains of the previous year exceeding the amount payable on the  
basis of such assessment, a refund shall be given of the difference

<sup>11</sup>[Provided that sub sections (3) and (4) shall not apply—

(a) to super-tax except where the income, profits and gains of the  
business, profession or vocation were assessed to super-tax for the

<sup>7</sup> Substituted for "on which income tax was not at any time charged under the pro-  
visions of the Indian Income tax Act, 1918" by s 7 of the Indian I T (Amendment) Act,  
1944 (11 of 1944)

<sup>8</sup> "Which was in existence at the commencement of this Act and" omitted by s 6 of  
the Indian I T (Amendment) Act, 1924 (11 of 1924)

<sup>9</sup> Inserted by s 30 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>10</sup> Sub secs (4) and (5) were inserted, *ibid*

<sup>11</sup> Inserted by s 14 of the Indian I T (Amendment) Act, 1941 (23 of 1941)

**Div 1** Officer shall make assessments accordingly on the various members and  
**Ss** groups of members in accordance with the provisions of section 23

**25A-26A** Provided that all the <sup>20</sup>[members and groups of members whose joint family property has been partitioned] shall be liable jointly and severally for the tax assessed on the total income received by or on behalf of the joint family as such

<sup>21</sup>[(3) Where such an order has not been passed in respect of a Hindu family hitherto assessed as undivided, such family shall be deemed, for the purposes of this Act, to continue to be a Hindu undivided family ]]

<sup>22</sup>[26 Change in constitution of a firm—(1) Where, at the time of making an assessment under section 23, it is found that a change has occurred in the constitution of a firm or that a firm has been newly constituted, <sup>23</sup>[the assessment shall be made on the firm as constituted] at the time of making the assessment

<sup>24</sup>[Provided that the income, profits and gains of the previous year shall, for the purpose of inclusion in the total incomes of the partners, be apportioned between the partners who in such previous year were entitled to receive the same

Provided further that when the tax assessed upon a partner cannot be recovered from him it shall be recovered from the firm as constituted at the time of making the assessment ]

<sup>25</sup>[(2) Where a person carrying on any business, profession or vocation has been succeeded in such capacity by another person, such person and such other person shall, subject to the provisions of sub section (4) of section 25, each be assessed in respect of his actual share, if any, of the income, profits and gains of the previous year

Provided that, when the person succeeded in the business, profession or vocation cannot be found, the assessment of the profits of the year in which the succession took place up to the date of succession, and for the year preceding that year shall be made on the person succeeding him in like manner and to the same amount as it would have been made on the person succeeded or when the tax in respect of the assessment made for either of such years assessed on the person succeeded cannot be recovered from him, it shall be payable by and recoverable from the person succeeding, and such person shall be entitled to recover from the person succeeded the amount of any tax so paid ]]

<sup>1</sup>[26A Procedure in registration of firms—(1) Application may be made to the Income tax Officer on behalf of any firm, constituted under an instrument of partnership specifying the individual shares of the partners, for registration for the purposes of this Act and of any other enactment for the time being in force relating to income-tax or super-tax

(2) The application shall be made by such person or persons, and at such times and shall contain such particulars and shall be in such form, and be verified in such manner, as may be prescribed, and it shall be dealt with by the Income tax Officer in such manner as may be prescribed ]

<sup>20</sup> Substituted for "separated members and groups of members" by s 31 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>21</sup> Inserted by s 3 of the Indian I T (Second Amendment) Act, 1930 (22 of 1930)

<sup>22</sup> Substituted by s 5 of the Indian I T (Amendment) Act, 1928 (3 of 1928)

<sup>23</sup> Substituted by s 32 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>24</sup> Inserted, *ibid*

<sup>25</sup> Substituted, *ibid*

<sup>1</sup> Inserted by s 5 of the Indian I T (Amendment) Act, 1930 (21 of 1930)

**27 Cancellation of assessment when cause is shown** —Where an assessee **Div**  
 2\* \* \* within one month from the service of a notice of demand **Ss**  
 issued as hereinafter provided, satisfies the Income-tax Officer that he was **27, /**  
 prevented by sufficient cause from making the return required by section 22,  
 or that he did not receive the notice issued under sub section (4) of section 22,  
 or sub section (2) of section 23, or that he had not a reasonable opportunity  
 to comply, or was prevented by sufficient cause from complying, with the  
 terms of the last-mentioned notices, the Income-tax Officer shall cancel  
 the assessment and proceed to make a fresh assessment in accordance with  
 the provisions of section 23

<sup>3</sup>[**28 Penalty for concealment of income or improper distribution of profits** —<sup>4</sup>(1) If the Income-tax Officer, the Appellate Assistant Commissioner  
<sup>5</sup>[or the Appellate Tribunal], in the course of any proceedings under this Act,  
 is satisfied that any person—

- (a) has without reasonable cause failed to furnish the return of his total income which he was required to furnish by notice given under sub-section (1) or sub-section (2) of section 22 or section 34 or has without reasonable cause failed to furnish it within the time allowed and in the manner required by such notice, or
- (b) has without reasonable cause failed to comply with a notice under sub section (4) of section 22 or sub section (2) of section 23, or
- (c) has concealed the particulars of his income or deliberately furnished inaccurate particulars of such income,

<sup>6</sup>[he or it may direct] that such person shall pay by way of penalty, in the case referred to in clause (a), in addition to the amount of the income-tax and super-tax, if any, payable by him, a sum not exceeding one and a half times that amount, and in the cases referred to in clauses (b) and (c), in addition to any tax payable by him, a sum not exceeding one and a half times the amount of the income tax and super-tax, if any, which would have been avoided if the income as returned by such person had been accepted as the correct income

Provided that—

- (a) no penalty for failure to furnish the return of his total income shall be imposed on an assessee whose total income is less than three thousand five hundred rupees unless he has been served with a notice under sub section (2) of section 22,
- (b) where a person has failed to comply with a notice under sub-section (2) of section 22 or section 34 and proves that he has no income liable to tax, the penalty imposable under this sub section shall be a penalty not exceeding twenty-five rupees,
- (c) no penalty shall be imposed under this sub-section upon any person assessable under section 42 as the agent of a person not resident in <sup>7</sup>[the taxable territories] for failure to furnish the return required under section 22 unless a notice under sub-section (2) of that section or under section 34 has been served on him,

<sup>2</sup> "Or in the case of a company, the principal officer thereof" omitted by s 33 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>3</sup> Substituted by s 6 of the Indian I T (Amendment) Act, 1930 (21 of 1930)

<sup>4</sup> Substituted by s 34 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>5</sup> Substituted for "or the Commissioner" by s 86, *ibid*

<sup>6</sup> Substituted for "he may direct", *ibid*

<sup>7</sup> Substituted for "British India" by the Adaptation of Laws Order, 1950

Div 1  
S 28

<sup>8</sup>[(d) <sup>9</sup>[when the person liable to penalty is a registered firm or an unregistered firm which has been assessed under clause (b) of sub-section (5) of section 23, then, notwithstanding anything contained in the other provisions of this Act, the amount of income-tax and super-tax payable by the firm itself shall be taken to be] an amount equal to the tax which would have been payable by an unregistered firm on an income equal to the firm's total income, and, in the cases referred to in clauses (b) and (c), the amount of the income-tax and super-tax which would have been avoided if the income as returned had been accepted as the correct income, shall be taken to be the difference between the amount of the tax which would have been payable by an unregistered firm on an income equal to the firm's total income and the amount of the tax payable by an unregistered firm on an income equal to the income of the firm as actually returned by the firm ]]

(2) If the Income-tax Officer, the <sup>10</sup>[Appellate Assistant Commissioner] <sup>11</sup>[or the Appellate Tribunal], in the course of any proceedings under this Act, is satisfied that the profits of a registered firm have been distributed otherwise than in accordance with the shares of the partners as shown in the instrument of partnership registered under this Act governing such distribution, and that any partner has thereby returned his income below its real amount, <sup>12</sup>[he or it may direct] that such partner shall <sup>13</sup>[in addition to the income-tax and super-tax, if any, payable by him] pay by way of penalty a sum <sup>14</sup>[not exceeding one and a half times the amount of income-tax and super-tax] which has been avoided, or would have been avoided if the income returned by such partner had been accepted as his correct income, and no refund or other adjustment shall be claimable by any other partner by reason of such direction

(3) No order shall be made under sub-section (1) or sub section (2) unless the assessee or partner, as the case may be, has been heard, or has been given a reasonable opportunity of being heard

(4) No prosecution for an offence against this Act shall be instituted in respect of the same facts on which a penalty has been imposed under this section

(5) An <sup>15</sup>[Appellate Assistant Commissioner] <sup>16</sup>[or the Appellate Tribunal on making] an order under sub section (1) or sub section (2), shall forthwith send a copy of the same to the Income-tax Officer

<sup>17</sup>[(6) The Income tax Officer shall not impose any penalty under this section without the previous approval of the Inspecting Assistant Commissioner ]]

<sup>8</sup> Inserted by s 8 of the Indian I T (Amendment) Act, 1940 (40 of 1940)

<sup>9</sup> Substituted for "when the person liable to penalty is a registered firm, or an unregistered firm treated under section 23 (5) (b) as a registered firm, so that the amount of the income tax and super tax payable by the firm itself has not been determined, that amount shall be taken to be" by s 17 of the Finance Act, 1956, with effect from the 1st April, 1956

<sup>10</sup> Substituted for "Assistant Commissioner" by s 34 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>11</sup> Substituted for "or the Commissioner" by s 86, *ibid*

<sup>12</sup> Substituted for "he may direct", *ibid*

<sup>13</sup> Substituted for "in addition to the income-tax payable by him" by s 34, *ibid*

<sup>14</sup> Substituted for "not exceeding the amount of income tax", *ibid*

<sup>15</sup> Substituted for "Assistant Commissioner", *ibid*

<sup>16</sup> Substituted for "or a Commissioner, who has made" by s 86, *ibid*

<sup>17</sup> Inserted by s 34, *ibid*

<sup>18</sup>[29 Notice of demand —When any <sup>19</sup>[tax, penalty or interest] is due in consequence of any order passed under or in pursuance of this Act, the Income-tax Officer shall serve upon the assessee or other person liable to pay such <sup>19</sup>[tax, penalty or interest] a notice of demand in the prescribed form specifying the sum so payable ]

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**30 Appeal against assessment under this Act —**(1) Any assessee objecting to the amount <sup>20</sup>[of income assessed under section 23 or section 27, or the amount of loss computed under section 24 or the amount of tax determined under section 23 or section 27], or denying his liability to be assessed under this Act, <sup>21</sup>[or objecting to the cancellation by an Income-tax Officer of the registration of a firm under sub section (4) of section 23 or to a refusal to register a firm under sub section (4) of section 23 or section 26A] or to make a fresh assessment under section 27, or <sup>22</sup>[objecting] to any order <sup>23\*</sup> \*under sub section (2) of section 25 <sup>24</sup>[or section 25A] <sup>22</sup>[or sub-section (2) of section 26] or section 28 made by an Income-tax Officer, <sup>22</sup>[or objecting to any penalty imposed by an Income tax Officer under sub-section (6) of section 44E or sub section (5) of section 44F or sub section (1) of section 46, or objecting to a refusal of an Income-tax Officer to allow a claim to a refund under section 48, 49 or 49F, or to the amount of the refund allowed by the Income-tax Officer under any of those sections, and any assessee, being a company, objecting to an order made by an Income-tax Officer under sub section (1) of section 23A], may appeal to the <sup>25</sup>[Appellate Assistant Commissioner] against the assessment or against such refusal or order

<sup>1</sup>[Provided that no appeal shall lie against an order under sub section (1) of section 46 unless the tax has been paid

Provided further that where the partners of a firm are individually assessable on their shares in the total income of the firm, any such partner may appeal to the Appellate Assistant Commissioner against any order of an Income tax Officer determining the amount of the total income or the loss of the firm or the apportionment thereof between the several partners, but in respect of matters which are determined by such order may not appeal against the assessment of his own total income

Provided further that a shareholder in a company in respect of which an order under section 23A has been passed by an Income tax Officer, may not in respect of matters determined by such order appeal against the assessment of his own total income ]

<sup>2</sup>[(1A) Any person having, in accordance with the provisions of sub-section <sup>3\*</sup> (3B) <sup>3\*</sup> \* of section 18, read with sub section (6) of that section, deducted and paid tax in respect of any sum chargeable under this Act other than interest who denies his liability to make such deduction

<sup>18</sup> Substituted by s 35, *ibid*

<sup>19</sup> Substituted for " tax or penalty " by s 8 of the Indian I T (Amendment) Act, 1944 (11 of 1944)

<sup>20</sup> Substituted for " or rate at which he is assessed under section 23 or section 27 " by s 36 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>21</sup> Substituted for " or objecting to a refusal of an Income tax Officer to register a firm under section 26A " by s 9 of the Indian I T (Amendment) Act, 1944 (11 of 1944)

<sup>22</sup> Inserted by s 36 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>23</sup> " Against him " omitted, *ibid*

<sup>24</sup> Inserted by s 4 of the Indian I T (Second Amendment) Act, 1930 (22 of 1930)

<sup>25</sup> Substituted for " Assistant Commissioner " by s 36 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>1</sup> Substituted, *ibid*

<sup>2</sup> Inserted by s 9 of the Indian I T (Amendment) Act, 1944 (11 of 1944)

<sup>3</sup> "(3A)" and "or (3C)" omitted by s 16 of the Indian I T (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952

Div 1 may appeal to the Appellate Assistant Commissioner to be declared not  
Ss liable to make such deduction ]

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(2) The appeal shall ordinarily be presented within thirty days <sup>4</sup>[of the payment of the tax deducted under sub section (3A), (3B) or (3C) of section 18 or] of receipt of the notice of demand relating to the assessment or penalty objected to <sup>5</sup>[or of the order in writing notifying the amount of total income on which the determination under sub section (5) of section 23 was based and the apportionment thereof between the several partners or of the loss computed under section 24] <sup>6</sup>[or of the intimation of the refusal <sup>7</sup>[to pass an order under sub section (1) of section 25A, or] to register a firm under section 26A] or of the date of the refusal to make a fresh assessment under section 27, <sup>8</sup>[or of the intimation of an order under sub section (1) of section 23A or under section 48, 49 or 49F], as the case may be, but the <sup>9</sup>[Appellate Assistant Commissioner] may admit an appeal after the expiration of the period if he is satisfied that the appellant had sufficient cause for not presenting it within that period

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(3) The appeal shall be in the prescribed form and shall be verified in the prescribed manner

**31 Hearing of appeal**—(1) The <sup>9</sup>[Appellate Assistant Commissioner] shall fix a day and place for the hearing of the appeal, and may from time to time adjourn the hearing

(2) The <sup>9</sup>[Appellate Assistant Commissioner] may, before disposing of any appeal, make such further inquiry as he thinks fit, or cause further inquiry to be made by the Income tax Officer

<sup>10</sup>[(2A) The Appellate Assistant Commissioner may, at the hearing of an appeal, allow an appellant to go into any ground of appeal not specified in the grounds of appeal, if the Appellate Assistant Commissioner is satisfied that the omission of that ground from the form of appeal was not wilful or unreasonable ]

(3) In disposing of an appeal the <sup>11</sup>[Appellate Assistant Commissioner] may, in the case of an order of assessment,—

(a) confirm, reduce, enhance or annul the assessment, <sup>12</sup>\* \* \* or

(b) set aside the assessment and direct the Income tax Officer to make a fresh assessment after making such further inquiry as the Income tax Officer thinks fit or the <sup>11</sup>[Appellate Assistant Commissioner] may direct, and the Income-tax Officer shall thereupon proceed to make such fresh assessment <sup>13</sup>[and determine where necessary the amount of tax payable on the basis of such fresh assessment],

<sup>4</sup> Inserted by s 9 of the Indian I T (Amendment) Act, 1944 (11 of 1944)

<sup>5</sup> Inserted by s 15 of the Indian I T (Amendment) Act, 1941 (23 of 1941)

<sup>6</sup> Inserted by s 12 of the Indian I T (Second Amendment) Act, 1933 (18 of 1933)

<sup>7</sup> Inserted by s 2 and Sch I of the Repealing and Amending Act, 1937 (20 of 1937)

<sup>8</sup> Inserted by s 36 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>9</sup> Substituted for "Assistant Commissioner" by s 37, *ibid*

<sup>10</sup> Inserted, *ibid*

<sup>11</sup> Substituted for "Assistant Commissioner", *ibid*

<sup>12</sup> "And, in the case of an assessment on a firm or association of persons, authorise the Income tax Officer to amend accordingly any assessment made on any partner of the firm or any member of the association" omitted by s 16 of the Indian I T (Amendment) Act, 1941 (23 of 1941)

<sup>13</sup> Inserted by s 37 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>11</sup>[or, in the case of an order cancelling the registration of a firm under Div sub section (4) of section 23 or refusing to register a firm under sub section S: 31 (1) of section 23 or section 26A] or to make a fresh assessment under section 27,

(c) confirm such order, or cancel it and direct the Income-tax Officer <sup>15</sup>[to register the firm or to make a fresh assessment, as the case may be],

or, in the case of an order under sub section (2) of <sup>16</sup>[section 25 or sub section (1) of section 23A, or sub section (2) of section 26 or section 48, 49 or 49F],

<sup>17</sup>[(d)] confirm, cancel or vary such order,

<sup>18</sup>[or, in the case of an order under sub section (1) of section 25A,

(c) confirm such order or cancel it and either direct the Income-tax Officer to make further inquiry and pass a fresh order or to make an assessment in the manner laid down in sub section (2) of section 25A,

or, in the case of an order under section 28 or sub section (6) of section 41E or sub section (5) of section 41F or sub section (1) of section 46,

(f) confirm or cancel such order or vary it so as either to enhance or reduce the penalty,

or, in the case of an appeal against a computation of loss under section 24,

(g) confirm or vary such computation],

<sup>19</sup>[or, in the case of an appeal under sub section (1A) of section 30,

(h) decide that the person is or is not liable to make the deduction and in the latter case direct the refund of the sum paid under sub section (6) of section 18 ]

Provided that the <sup>20</sup>[Appellate Assistant Commissioner] shall not enhance an assessment <sup>21</sup>[or a penalty] unless the appellant has had a reasonable opportunity of showing cause against such enhancement

<sup>21</sup>[Provided further that at the hearing of any appeal against an order of an Income tax Officer, the Income-tax Officer shall have the right to be heard either in person or by a representative ]

<sup>22</sup>[(4) Where as the result of an appeal any change is made in the assessment of a firm or association of persons or a new assessment of a firm or association of persons is ordered to be made, the Appellate Assistant Commissioner may authorise the Income tax Officer to amend accordingly any assessment made on any partner of the firm or any member of the association

<sup>14</sup> Substituted for the words "or in the case of an order refusing to register a firm under section 26A" (which had been inserted by s 5 of the Indian I T (Second Amendment) Act, 1930 (22 of 1930)), by s 10 of the Indian I T (Amendment) Act, 1944 (11 of 1944)

<sup>15</sup> Substituted for "to make a fresh assessment" by s 13 of the Indian I T (Second Amendment) Act, 1933 (18 of 1933)

<sup>16</sup> Substituted for "section 25 or section 28" by s 37 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>17</sup> Cl (c) was re lettered "(d)" by s 5 of the Indian I T (Second Amendment) Act, 1930 (22 of 1930)

<sup>18</sup> Inserted by s 37 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>19</sup> Inserted by s 10 of the Indian I T (Amendment) Act, 1944 (11 of 1944)

<sup>20</sup> Substituted for "Assistant Commissioner" by s 37 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>21</sup> Inserted, *ibid*

<sup>22</sup> Inserted by s 10 of the Indian I T (Amendment) Act, 1941 (23 of 1941)

Div 1 (5) The Appellate Assistant Commissioner shall, on the conclusion of  
Ss the appeal, communicate the orders passed by him to the assessee and to  
31-33A the Commissioner ]

32 Appeals against orders of Appellate Assistant Commissioner —  
*Omitted by s 87 of the Indian Income tax (Amendment) Act, 1939 (VII of 1939)*

<sup>23</sup>[33 Appeals against orders of Appellate Assistant Commissioner —  
(1) Any assessee objecting to an order passed by an Appellate Assistant  
Commissioner under section 28 or section 31 may appeal to the Appellate  
Tribunal within sixty days of the date <sup>24</sup>[on which such order is communi-  
cated to him]

(2) The Commissioner may, if he objects to any order passed by an  
Appellate Assistant Commissioner under section 31, direct the Income-tax  
Officer to appeal to the Appellate Tribunal against such order, and such  
appeal may be made <sup>25</sup>[within sixty days of the date on which the order  
is communicated to the Commissioner by the Appellate Assistant Com-  
missioner]

<sup>1</sup>[(2A) The Tribunal may admit an appeal after the expiry of the  
sixty days referred to in sub sections (1) and (2) if it is satisfied that there  
was sufficient cause for not presenting it within that period ]

(R. 22) (3) An appeal to the Appellate Tribunal shall be in the prescribed  
form and shall be verified in the prescribed manner, and shall, except in  
the case of an appeal referred to in sub section (2), be accompanied by a  
fee of one hundred rupees

(4) The Appellate Tribunal may, after giving both parties to the  
appeal an opportunity of being heard, pass such orders thereon as it thinks  
fit, and shall communicate any such orders to the assessee and to the  
Commissioner

<sup>2</sup>[(5) Where as the result of an appeal any change is made in the assess-  
ment of a firm or association of persons or a new assessment of a firm or  
association of persons is ordered to be made, the Appellate Tribunal may  
authorise the Income-tax Officer to amend accordingly any assessment made  
on any partner of the firm or any member of the association ]

<sup>3</sup>[(6)] Save as provided in section 66 orders passed by the Appellate  
Tribunal on appeal shall be final ]

<sup>4</sup>[33A Power of revision by Commissioner —(1) The Commissioner  
may of his own motion call for the record of any proceeding under this  
Act in which an order has been passed by any authority subordinate to  
him and may make such inquiry or cause such inquiry to be made and,  
subject to the provisions of this Act, may pass such order thereon, not  
being an order prejudicial to the assessee, as he thinks fit

Provided that the Commissioner shall not revise any order under this  
sub section if—

(a) where an appeal against the order lies to the Appellate Assistant  
Commissioner or to the Appellate Tribunal, the time within  
which such appeal may be made has not expired, or

<sup>23</sup> Substituted by s 88 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>24</sup> Substituted for "on which he is served with notice of such order" by s 17 of the  
Indian I T (Amendment) Act, 1941 (23 of 1941)

<sup>25</sup> Substituted for "at any time before the expiry of sixty days from the date of the  
order", *ibid*

<sup>1</sup> Inserted *ibid*

<sup>2</sup> Inserted by s 11 of the Indian I T (Amendment) Act, 1944 (11 of 1944)

<sup>3</sup> Re numbered, *ibid*

<sup>4</sup> Inserted by s 18 of the Indian I T (Amendment) Act, 1941 (23 of 1941)



(b) the order is pending on an appeal before the Appellate Assistant Commissioner or has been made the subject of an appeal to the Appellate Tribunal, or

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(c) the order has been made more than one year previously

(2) The Commissioner may, on application by an assessee for revision of an order under this Act passed by any authority subordinate to the Commissioner, made within one year from the date of the order <sup>5</sup>[(or within such further period as the Commissioner may think fit to allow on being satisfied that the assessee was prevented by sufficient cause from making the application within that period)], call for the record of the proceeding in which such order was passed, and on receipt of the record may make such inquiry or cause such inquiry to be made, and, subject to the provisions of this Act, may pass such order thereon, not being an order prejudicial to the assessee, as he thinks fit

Provided that the Commissioner shall not revise any order under this sub section if—

(a) where an appeal against the order lies to the Appellate Assistant Commissioner or to the Appellate Tribunal but has not been made, the time within which such appeal may be made has not expired, or, in the case of an appeal to the Appellate Tribunal, the assessee has not waived his right of appeal, or

(b) where an appeal against the order has been made to the Appellate Assistant Commissioner, the appeal is pending before the Appellate Assistant Commissioner, or

(c) the order has been made the subject of an appeal to the Appellate Tribunal

Provided further that an order by the Commissioner declining to interfere shall be deemed not to be an order prejudicial to the assessee

<sup>6</sup>[*Explanation*—For the purposes of sub sections (1) and (2), the Appellate Assistant Commissioner shall be deemed to be an authority subordinate to the Commissioner ]

(3) Every application by an assessee under sub section (2) shall be accompanied by a fee of twenty-five rupees ]

<sup>7</sup>[33B Power of Commissioner to revise Income-tax Officer's orders —

(1) The Commissioner may call for and examine the record of any proceeding under this Act and if he considers that any order passed therein by the Income-tax Officer is erroneous in so far as it is prejudicial to the interests of the revenue, he may, after giving the assessee an opportunity of being heard and after making or causing to be made such enquiry as he deems necessary, pass such order thereon as the circumstances of the case justify, including an order enhancing or modifying the assessment, or cancelling the assessment and directing a fresh assessment

(2) No order shall be made under sub-section (1)—

(a) to revise an order of reassessment made under the provisions of section 34, or

(b) after the expiry of two years from the date of the order sought to be revised

<sup>5</sup> Inserted by s 17 of the Indian I T (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952

<sup>6</sup> Inserted, *ibid*, with effect from the 1st April, 1952

<sup>7</sup> Inserted by s 7 of the I T and B P T (Amendment) Act, 1948 (48 of 1948), with effect from the 30th March, 1948

Div 1 (3) Any assessee objecting to an order passed by the Commissioner  
Ss under sub section (1) may appeal to the Appellate Tribunal within sixty days  
33B, 34 of the date on which the order is communicated to him

(R 22) (4) An appeal to the Appellate Tribunal under sub section (3) shall be in the prescribed form and shall be verified in the prescribed manner and shall be accompanied by a treasury receipt in support of having paid the fee of Rs 100, and such appeal shall be dealt with in the same manner as if it were an appeal under sub section (1) of section 33 ]

<sup>2</sup>[34 Income escaping assessment —<sup>3</sup>(1) If—

(a) the Income tax Officer has reason to believe that by reason of the omission or failure on the part of an assessee to make a return of his income under section 22 for any year or to disclose fully and truly all material facts necessary for his assessment for that year, income, profits or gains chargeable to income-tax have escaped assessment for that year, or have been under-assessed, or assessed at too low a rate, or have been made the subject of excessive relief under the Act, or excessive loss or depreciation allowance has been computed, or

(b) notwithstanding that there has been no omission or failure as mentioned in clause (a) on the part of the assessee, the Income tax Officer has in consequence of information in his possession reason to believe that income, profits or gains chargeable to income tax have escaped assessment for any year, or have been under-assessed, or assessed at too low a rate, or have been made the subject of excessive relief under this Act, or that excessive loss or depreciation allowance has been computed,

he may in cases falling under clause (a) at any time <sup>10\*</sup> \* and in cases falling under clause (b) at any time within four years of the end of that year, serve on the assessee, or, if the assessee is a company, on the principal officer thereof, a notice containing all or any of the requirements which may be included in a notice under sub section (2) of section 22 and may proceed to assess or reassess such income, profits or gains or recompute the loss or depreciation allowance, and the provisions of this Act shall, so far as may be, apply accordingly as if the notice were a notice issued under that sub section

\* Substituted by s 8 of the I T and B P T (Amendment) Act, 1948 (48 of 1948), with effect from the 30th March 1948

<sup>3</sup> *Validity of certain notices and assessments* —For the removal of doubts it is hereby declared that the provisions of sub sections (1), (2) and (3) of section 34 of the principal Act [the Indian Income tax Act, 1922] shall apply and shall be deemed always to have applied to any assessment or reassessment for any year ending before the 1st day of April, 1948, in any case where proceedings in respect of such assessment or reassessment were commenced under the said sub sections after the 8th day of September 1948, and any notice issued in accordance with sub section (1) or any assessment completed in pursuance of such notice within the time specified in sub section (3), whether before or after the commencement of the Indian Income tax (Amendment) Act, 1953, shall, notwithstanding any judgment or order of any court, Appellate Tribunal or Income tax authority to the contrary, be deemed to have been validly issued or completed, as the case may be, and no such notice, assessment or reassessment shall be called in question on the ground merely that the provisions of section 34 did not apply or purport to apply in respect of an assessment or reassessment for any year prior to the 1st day of April, 1948" —S 31 of the Indian I T (Amendment) Act, 1953 (25 of 1953)

<sup>10</sup> "Within eight years" omitted by s 18 of the Finance Act, 1956, with effect from the 1st April 1956

<sup>11</sup>[Provided that the Income tax Officer shall not issue a notice under clause (a) of sub section (1)—

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- (i) for any year prior to the year ending on the 31st day of March, 1941,
- (ii) for any year, if eight years have elapsed after the expiry of that year, unless the income, profits or gains chargeable to income-tax which have escaped assessment or have been under-assessed or assessed at too low a rate or have been made the subject of excessive relief under this Act, or the loss or depreciation allowance which has been computed in excess, amount to, or are likely to amount to, one lakh of rupees or more in the aggregate, either for that year, or for that year and any other year or years after which or after each of which eight years have elapsed, not being a year or years ending before the 31st day of March, 1941,
- (iii) for any year, unless he has recorded his reasons for doing so, and, in any case falling under clause (ii), unless the Central Board of Revenue, and, in any other case, the Commissioner, is satisfied on such reasons recorded that it is a fit case for the issue of such notice

Provided further that the Income tax Officer shall not issue a notice under this sub section for any year, after the expiry of two years from that year, if the person on whom the assessment or reassessment is to be made in pursuance of the notice is a person deemed to be the agent of a non-resident person under section 43

Provided further that the tax shall be chargeable at the rate at which it would have been charged had the income, profits or gains not escaped assessment or full assessment, as the case may be ]

*Explanation*—Production before the Income tax Officer of account-books or other evidence from which material facts could with due diligence have been discovered by the Income tax Officer will not necessarily amount to disclosure within the meaning of this section

<sup>12</sup>[(1A) If, in the case of any assessee, the Income tax Officer has reason to believe—

- (i) that income, profits or gains chargeable to income tax have escaped assessment for any year in respect of which the relevant previous year falls wholly or partly within the period beginning on the 1st day of September, 1939, and ending on the 31st day of March, 1946, and
- (ii) that the income, profits or gains which have so escaped assessment for any such year or years amount, or are likely to amount, to one lakh of rupees or more,

he may, notwithstanding that the period of eight years or, as the case may be, four years specified in sub section (1) has expired in respect thereof, serve on the assessee, or if the assessee is a company, on the principal officer thereof, a notice containing all or any of the requirements which may be included in a notice under sub section (2) of section 22, and may proceed to assess or reassess the income, profits or gains of the assessee for all or any of the years referred to in clause (i), and thereupon the provisions of this Act (excepting those contained in clauses (i) and (iii) of the proviso

<sup>11</sup> Substituted for the original proviso, *ibid*, with effect from the 1st April 1956

<sup>12</sup> Inserted by s 2 of the Indian I T (Amendment) Act, 1954 (33 of 1954), with effect from the 17th July 1951

to sub section (1) and in sub sections (2) and (3) of this section) shall, so far as may be, apply accordingly

Provided that the Income-tax Officer shall not issue a notice under this sub section unless he has recorded his reasons for doing so, and the Central Board of Revenue is satisfied on such reasons recorded that it is a fit case for the issue of such notice

Provided further that no such notice shall be issued after the 31st day of March, 1956

(R 49) (1B) Where any assessee <sup>13</sup>[to whom a notice has been issued under clause (a) of sub section (1) or under sub section (1A) for any of the years ending on the 31st day of March of the years 1941 to 1948 inclusive] applies to the Central Board of Revenue at any time within six months from the receipt of such notice or before the assessment or reassessment is made, whichever is earlier, to have the matters relating to his assessment settled, the Central Board of Revenue may, after considering the terms of settlement proposed and subject to the previous approval of the Central Government, accept the terms of such settlement, and, if it does so, shall make an order in accordance with the terms of such settlement specifying among other things the sum of money payable by the assessee

(1C) Any sum specified in a settlement arrived at in pursuance of sub section (1B) may be recovered and any penalty for default in making payment of any such sum may be imposed and recovered in the manner provided in Chapter VI

(1D) Any settlement arrived at under this section shall be conclusive as to the matters stated therein, and no person, whose assessments have been so settled, shall be entitled to reopen in any proceeding for the recovery of any sum under this Act or in any subsequent assessment or reassessment proceeding relating to any tax chargeable under this Act or in any other proceeding whatsoever before any court or other authority any matter which forms part of such settlement]

(2) Where an assessment is reopened in circumstances falling under clause (b) of sub section (1), the assessee may, if he has not impugned any part of the original assessment order for that year either under section 30 or under section 33A, claim that the proceedings under sub section (1) of this section shall be dropped on his showing that he had been assessed on an amount or to a sum not lower than what he would be rightly liable for even if the items alleged to have escaped assessment had been taken into account, or the assessment or computation had been properly made

Provided that in so doing he shall not be entitled to reopen matters concluded by an order under section 33B or section 35, or by a decision <sup>14\*</sup> \* \* under section 66 <sup>15</sup>[or] section 66A

(3) <sup>16</sup>[No order of assessment or reassessment, other than an order of assessment under section 23 to which clause (c) of sub section (1) of section 28 applies or an order of assessment or reassessment in cases falling within clause (a) of sub section (1) or sub section (1A) of this section shall be made after the expiry of four years from the end of the year in which the income, profits or gains were first assessable

<sup>13</sup> Substituted for " to whom a notice has been issued under sub section (1A) " by s 18 of the Finance Act, 1956, with effect from the 1st April, 1956

<sup>14</sup> " Of the High Court or of the Privy Council " omitted by s 18 of the Indian I T (Amendment) Act 1953 (25 of 1953), with effect from the 1st April, 1952

<sup>15</sup> Substituted for " and ", *ibid*, with effect from the 1st April, 1952

<sup>16</sup> Substituted by s 18 of the Finance Act, 1956, with effect from the 1st April, 1956

Provided that where a notice under clause (b) of sub section (1) has been issued within the time therein limited, the assessment or reassessment to be made in pursuance of such notice may be made before the expiry of one year from the date of the service of the notice even if at the time of the assessment or reassessment the four years aforesaid have already elapsed ]

Provided further that nothing contained in this <sup>17</sup>[section limiting the time within which any action may be taken or any order, assessment or reassessment may be made,] shall apply to a reassessment made under section 27 or <sup>18</sup>[to an assessment or reassessment made on the assessee or any person in consequence of or to give effect to any finding or direction contained in] an order under section 31, section 33, section 33A, section 33B, section 66 or section 66A

<sup>19</sup>[(4) A notice under clause (a) of sub section (1) may be issued at any time notwithstanding that at the time of the issue of the notice the period of eight years specified in that sub-section before its amendment by clause (a) of section 18 of the Finance Act, 1956 (XVIII of 1956), had expired in respect of the year to which the notice relates ]]

**35 Rectification of mistake** —(1) <sup>20</sup>[The Commissioner or <sup>21</sup>[Appellate Assistant Commissioner] may, at any time <sup>22</sup>[within four years] from the date of any order passed by him in appeal or, in the case of the Commissioner, in revision under <sup>23</sup>[section 33A] and] the Income-tax Officer may, at any time <sup>22</sup>[within four years] from the date of any <sup>24</sup>[assessment order <sup>25</sup>[or refund order] passed by him] on his own motion rectify any mistake apparent from the record <sup>1</sup>[of the appeal, revision, <sup>2</sup>[assessment or refund] as the case may be], and shall within the like period rectify any such mistake which has been <sup>3</sup>[brought to his notice by an assessee]

Provided that no such rectification shall be made, having the effect of enhancing an assessment <sup>4</sup>[or reducing a refund] unless <sup>20</sup>[the Commis-

<sup>17</sup> Substituted for "sub section" by s 18 of the Indian I T (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952

<sup>18</sup> Substituted for "in pursuance of", *ibid*, with effect from the 1st April, 1952

<sup>19</sup> Inserted by s 2 of the Indian I T (Amendment) Act, 1959 (1 of 1959)

<sup>20</sup> *Saving of notices, assessments, etc., in certain cases* —No notice issued under clause (a) of sub section (1) of section 34 of the principal Act at any time before the commencement of this Act and no assessment, reassessment or settlement made or other proceedings taken in consequence of such notice shall be called in question in any court, tribunal or other authority merely on the ground that at the time the notice was issued or at the time the assessment or reassessment was made, the time within which such notice should have been issued or the assessment or reassessment should have been made under that section as in force before its amendment by clause (a) of section 18 of the Finance Act, 1956 (18 of 1956), had expired —S 4 of the Indian I T (Amendment) Act, 1959 (1 of 1959)

<sup>21</sup> Inserted by s 6 of the Indian I T (Amendment) Act, 1928 (3 of 1928)

<sup>22</sup> Substituted for "Assistant Commissioner" by s 42 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>23</sup> Substituted for "within one year", *ibid*

<sup>24</sup> Substituted for "section 33" by s 20 of the Indian I T (Amendment) Act, 1941 (23 of 1941)

<sup>25</sup> Substituted for "demand made upon an assessee" by s 42 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>1</sup> Inserted by s 3 of the I T Law Amendment Act, 1940 (12 of 1940)

<sup>2</sup> Substituted for "of the assessment" by s 6 of the Indian I T (Amendment) Act, 1928 (3 of 1928)

<sup>3</sup> Substituted for "or assessment" by s 3 of the I T Law Amendment Act, 1940 (12 of 1940)

<sup>4</sup> Substituted for "brought to his notice by the assessee" by s 42 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>5</sup> Inserted by s 3 of the I T Law Amendment Act, 1940 (12 of 1940)

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sioner, the <sup>5</sup>[Appellate Assistant Commissioner] or the Income-tax Officer, as the case may be], has given notice to the assessee of his intention so to do and has allowed him a reasonable opportunity of being heard

<sup>6</sup>[Provided further that no such rectification shall be made of any mistake in any order passed more than one year before the commencement of the Indian Income tax (Amendment) Act, 1939 ]

<sup>7</sup>[(2) The provisions of sub section (1) apply also in like manner to the rectification of mistakes by the Appellate Tribunal ]

<sup>8</sup>[(3)] Where any such rectification has the effect of reducing the assessment, the Income tax Officer shall make any refund which may be due to such assessee

<sup>9</sup>[(4)] Where any such rectification has the effect of enhancing the assessment <sup>9</sup>[or reducing a refund] the Income tax Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be issued under section 29, and the provisions of this Act shall apply accordingly

<sup>10</sup>[(5) Where in respect of any completed assessment of a partner in a firm it is found on the assessment or reassessment of the firm or on any reduction or enhancement made in the income of the firm under section 31, section 33, section 33A, section 33B, section 66 or section 66A that the share of the partner in the profit or loss of the firm has not been included in the assessment of the partner or, if included, is not correct, the inclusion of the share in the assessment or the correction thereof, as the case may be, shall be deemed to be a rectification of a mistake apparent from the record within the meaning of this section, and the provisions of sub section (1) shall apply thereto accordingly, the period of four years referred to in that sub-section being computed from the date of the final order passed in the case of the firm

(6) Where the excess profits tax or the business profits tax payable by an assessee has been modified in appeal, revision or any other proceeding, or where any excess profits tax or business profits tax has been assessed after the completion of the corresponding assessment for income-tax (whether before or after the commencement of the Indian Income tax (Amendment) Act, 1953), and in consequence thereof it is necessary to recompute the total income of the assessee chargeable to income-tax, such recomputation shall be deemed to be a rectification of a mistake apparent from the record within the meaning of this section, and the provisions of sub section (1) shall apply accordingly, the period of four years referred to in that sub section being computed from the date of the order making or modifying the assessment of such excess profits tax or business profits tax

*Explanation* —For the purposes of sub section (6), where the assessee is a firm, the provisions of sub section (5) shall also apply as they apply to the rectification of the assessment of the partners of the firm

(7) Where the assessment of a company in whose case an order under section 23A has been made is modified in appeal, revision or any other

<sup>5</sup> Substituted for "Assistant Commissioner" by s 42 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>6</sup> Inserted, *ibid*

<sup>7</sup> Inserted by s 89 *ibid*

<sup>8</sup> Sub secs (2) and (3) were re numbered " (3) " and " (4) ", *ibid*

<sup>9</sup> Inserted by s 3 of the I T Law Amendment Act, 1940 (12 of 1940)

<sup>10</sup> Inserted by s 19 of the Indian I T (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952

proceeding or the order under section 23A is cancelled, or varied, and in consequence thereof it is necessary to recompute the total income of the S shareholders, such recomputation shall be deemed to be a rectification of a mistake apparent from the record within the meaning of this section, and the provisions of sub section (1) shall apply thereto accordingly, the period of four years referred to in that sub section being computed from the date of the final order passed in the case of the company ]

<sup>11</sup>[(8) Where, as a result of proceedings initiated under clause (a) of sub section (1) or under sub-section (1A) of section 34,—

(a) a firm or an association of persons is assessed or reassessed, or

(b) a company is assessed or reassessed and in respect thereof an order under section 23A is subsequently made,

and the Income-tax Officer concerned is of opinion that it is necessary to compute or recompute the total income of a partner in the firm or a member of the association of persons or a shareholder in the company, as the case may be, the Income-tax Officer may proceed to compute or recompute the total income and determine the sum payable on the basis of such computation or recomputation as if the computation or recomputation is a rectification of a mistake apparent from the record within the meaning of this section, and the provisions of sub-section (1) shall apply accordingly, the period of four years specified therein being reckoned from the date of the final order passed in the case of the firm, association or company, as the case may be

(9) Where the Income tax Officer is satisfied that the income-tax payable by a company on its profits and gains out of which the company has declared a dividend, has not been paid within three years after the financial year in which the dividend was declared, the amount of income tax which a shareholder of the company is deemed himself to have paid in respect of such dividend under section 49B, or the amount for which credit is due to him under sub-section (5) of section 18 in respect of such dividend, shall be deemed to have been wrongly computed, and the Income tax Officer may, notwithstanding anything contained in this Act, proceed to recompute such amount by reducing it in the same proportion as the amount of income-tax remaining unpaid by the company bears to the amount of income-tax payable by it on such profits and gains, as if the recomputation is a rectification of a mistake apparent from the record within the meaning of this section, and the provisions of sub section (1) shall apply accordingly, the period of four years specified therein being reckoned from the date on which the period of three years aforesaid has expired

<sup>12</sup>[Provided that this sub section shall not apply in relation to dividends payable by a company in respect of any previous year relevant to any assessment year commencing on or after the 1st day of April, 1960 ]

(10) <sup>12\*</sup> \* \* \*

<sup>13</sup>[(11) Where an allowance by way of development rebate has been made wholly or partly to an assessee in respect of a ship, machinery or plant in any year of assessment under clause (vi b) of sub section (2) of section 10, and subsequently at any time before the expiry of ten years from the

<sup>11</sup> Sub secs (8), (9) and (10) were substituted for the original sub sec (8) by s 19 of the Finance Act, 1956 with effect from the 1st April, 1956

<sup>12</sup> The proviso was inserted, and sub sec (10) was omitted, by s 13 of the Finance Act, 1959, with effect from the 1st April, 1960

<sup>13</sup> Inserted by s 10 of the Finance Act, 1958, with effect from the 1st April, 1958

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- (i) the ship, machinery or plant is sold or otherwise transferred by the assessee to any person other than the Government <sup>14</sup>[or for any consideration not connected with any amalgamation or succession referred to in clause (vi-c) of sub section (2) of section 10], or
- (ii) the assessee utilises the amount credited to the reserve account under that clause—
  - (a) for distribution by way of dividends or profits, or
  - (b) for remittance outside India as profits or for the creation of any asset outside India, or
  - (c) for any other purpose which is not a purpose of the business of the undertaking,

the development rebate originally allowed shall be deemed to have been wrongly allowed, and the Income tax Officer may, notwithstanding anything contained in this Act, proceed to recompute the total income of the assessee for the relevant year as if the recomputation is a rectification of a mistake apparent from the record within the meaning of this section, and the provisions of sub section (1) shall apply accordingly, the period of four years specified therein being reckoned from the end of the year in which the transfer takes place or the money is so utilised

<sup>14</sup>[*Explanation* —For the purposes of this sub section, a successor referred to in sub clause (i) or sub clause (ii) of clause (vi c) of sub-section (2) of section 10 shall be deemed to be the assessee even in respect of an allowance by way of development rebate made to the predecessor, and any tax resulting from the recomputation of the total income for any previous year of the predecessor shall be payable by the successor ]]

**36 Tax to be calculated to nearest anna** —*Omitted by s 3 of the Finance Act, 1957 (v of 1957)*

<sup>15</sup>[**37 Powers of Income-tax authorities** —(1) The Income tax Officer, Appellate Assistant Commissioner, Commissioner and Appellate Tribunal shall, for the purposes of this Act, have the same powers as are vested in a Court under the Code of Civil Procedure, 1908 (V of 1908), when trying a suit in respect of the following matters, namely —

- (a) discovery and inspection,
- (b) enforcing the attendance of any person, including any officer of a banking company, and examining him on oath,
- (c) compelling the production of books of account and other documents, and
- (d) issuing commissions

(2) Subject to any rules made in this behalf, any Income tax Officer specially authorised by the Commissioner in this behalf may,—

- (i) enter and search any building or place where he has reason to believe that any books of account or other documents which in his opinion will be useful for, or relevant to, any proceeding under this Act may be found and examine them, if found,

<sup>14</sup> Inserted by s 9 of the Finance Act, 1961 with effect from the 1st April, 1961

<sup>15</sup> Substituted by s 20 of the Finance Act, 1956, with effect from the 1st April, 1956



- (ii) seize any such books of account or other documents or place marks of identification thereon or make extracts or copies therefrom, Div.  
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- (iii) make a note or an inventory of any other article or thing found in the course of any search under this section which in his opinion will be useful for, or relevant to, any proceeding under this Act,

and the provisions of the Code of Criminal Procedure, 1898 (V of 1898), relating to searches shall apply so far as may be to searches under this section

(3) Subject to any rules made in this behalf, any authority referred to in sub section (1) may impound and retain in its custody for such period as it thinks fit any books of account or other documents produced before it in any proceeding under this Act

Provided that an Income-tax Officer shall not—

- (a) impound any books of account or other documents without recording his reasons for so doing, or
- (b) retain in his custody any such books or documents for a period exceeding fifteen days (exclusive of holidays) without obtaining the approval of the Commissioner therefor

(4) Any proceeding before any authority referred to in this section shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code (XLV of 1860) ]

**38 Power to call for information** —The Income-tax Officer or Assistant Commissioner may, for the purposes of this Act,— (R 19)

- (1) require any firm, or Hindu undivided family to furnish him with a return of the members of the firm, or of the manager or adult male members of the family, as the case may be, and of their addresses,
- (2) require any person whom he has reason to believe to be a trustee, guardian, or agent, to furnish him with a return of the names of the persons for or of whom he is trustee, guardian, or agent, and of their addresses,
- <sup>16</sup>[(3) require any assessee to furnish a statement of the names and addresses of all persons to whom he has paid in any year rent, interest, commission, royalty or brokerage, or any annuity not being an annuity taxable under the head "Salaries", amounting to more than four hundred rupees, together with particulars of all such payments made,]
- <sup>17</sup>[(4) require any dealer, broker or agent or any person concerned in the management of a stock or commodity Exchange to furnish a statement of the names and addresses of all persons to whom he or the Exchange has paid any sum in connection with the sale, exchange or transfer of a capital asset, or on whose behalf or from whom he or the Exchange has received any such sum, together with particulars of all such payments and receipts,]
- <sup>18</sup>[(5) require any person, including a banking company or any officer thereof, to furnish information in relation to such points

<sup>16</sup> Substituted by s 44 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>17</sup> Inserted by s 11 of the I T and E P T (Amendment) Act, 1947 (22 of 1947)

<sup>18</sup> Inserted by s 21 of the Finance Act, 1956, with effect from the 1st April, 1956

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or matters, or to furnish statements of accounts and affairs verified in the manner specified by the Income-tax Officer or the Assistant Commissioner giving information in relation to such points or matters, as, in the opinion of the Income tax Officer or the Assistant Commissioner, will be useful for, or relevant to, any proceeding under this Act ]

39 Power to inspect the register of members of any company—The Income tax Officer or Assistant Commissioner, or any person authorised in writing in this behalf by the Income tax Officer or Assistant Commissioner, may inspect and, if necessary, take copies, or cause copies to be taken of any register of the members, debenture holders or mortgagees of any company or of any entry in such register

## CHAPTER V

### LIABILITY IN SPECIAL CASES

<sup>19</sup>[40 Guardians, trustees and agents—(1) Where the guardian or trustee of any person being a minor, lunatic or idiot (all of which persons are hereinafter in this sub section included in the term "beneficiary") is entitled to receive on behalf of such beneficiary, or is in receipt on behalf of such beneficiary of, any income, profits or gains chargeable under this Act, the tax shall be levied upon and recoverable from such guardian or trustee, as the case may be, in like manner and to the same amount as it would be leviable upon and recoverable from any such beneficiary if of full age or sound mind and in direct receipt of such income, profits or gains, and all the provisions of this Act shall apply accordingly]

(2) Where the trustee or agent of any person not resident in <sup>20</sup>[the taxable territories] and not being a minor, lunatic or idiot (such person being hereinafter in this sub-section referred to as a beneficiary) is entitled to receive on behalf of such beneficiary, or is in receipt on behalf of such beneficiary of, any income, profits or gains chargeable under this Act, the tax, if not levied on the beneficiary direct, may be levied upon and recovered from such trustee or agent, as the case may be, in like manner and to the same amount as it would be leviable upon and recoverable from the beneficiary if in direct receipt of such income, profits or gains, and all the provisions of this Act shall apply accordingly ]

41 Courts of Wards, etc —<sup>21</sup>[(1)] In the case of income, profits or gains chargeable under this Act which <sup>22\*</sup> \* \* \* the Courts of Wards, the Administrators General, the Official Trustees or <sup>23\*</sup> any receiver or manager (including any person whatever his designation who in fact manages property on behalf of another) appointed by or under any order of a Court, <sup>24</sup>[or any trustee or trustees <sup>25</sup>[appointed under a trust declared by a duly executed instrument in writing whether testamentary or otherwise] (including the

<sup>19</sup> Substituted by s 21 of the Indian I T (Amendment) Act, 1941 (23 of 1941)

<sup>20</sup> Substituted for "British India" by the Adaptation of Laws Order, 1950

<sup>1</sup> The original s 41 was re numbered sub sec (1) by s 46 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>2</sup> "Are received by" omitted, *ibid*

<sup>3</sup> "By" omitted, *ibid*

<sup>4</sup> Inserted, *ibid*

<sup>5</sup> Substituted for "appointed under a duly executed trust deed" by s 22 of the Indian I T (Amendment) Act, 1941 (23 of 1941)

trustee or trustees under any Wakf deed which is valid under the Mussalman Wakf Validating Act, 1913), are entitled to receive on behalf of any person,] the tax shall be levied upon and recoverable from such Court of Wards, Administrator-General, Official Trustee, receiver or manager <sup>1</sup>[or trustee or trustees], in the like manner and to the same amount as it would be leviable upon and recoverable from <sup>2</sup>[the person on whose behalf such income, profits or gains are receivable], and all the provisions of this Act shall apply accordingly

<sup>3</sup>[Provided that where any such income, profits or gains or any part thereof are not specifically receivable on behalf of any one person, or where the individual shares of the persons on whose behalf they are receivable are indeterminate or unknown, the tax shall be levied and recoverable at the maximum rate, <sup>4</sup>[but, where such persons have no other personal income chargeable under this Act and none of them is an artificial juridical person, as if such income, profits or gains or such part thereof were the total income of an association of persons]

Provided further that when part only of the income, profits and gains of a trust is chargeable under this Act, that proportion only of the income, profits and gains receivable by a beneficiary from the trust which the part so chargeable bears to the whole income, profits and gains of the trust shall be deemed to have been derived from that part ]

<sup>5</sup>[(2) Nothing contained in sub-section (1) shall prevent either the direct assessment of the person on whose behalf income, profits or gains therein referred to are receivable, or the recovery from such person of the tax payable in respect of such income, profits or gains ]

42 <sup>6</sup>[Income deemed to accrue or arise within <sup>7</sup>[the taxable territories] ]— (R. 33)  
 (1) <sup>8</sup>[All income, profits or gains accruing or arising], whether directly or indirectly, through or from any business connection <sup>9</sup>[in <sup>7</sup>[the taxable territories], or through or from any property in <sup>7</sup>[the taxable territories], or through or from any asset or source of income in <sup>7</sup>[the taxable territories], or through or from any money lent at interest and brought into <sup>7</sup>[the taxable territories] in cash or in kind] <sup>10</sup>[or through or from the sale, exchange or transfer of a capital asset in <sup>7</sup>[the taxable territories],] shall be deemed to be income accruing or arising within <sup>7</sup>[the taxable territories], and <sup>11</sup>[where the person entitled to the income, profits or gains is not resident in <sup>7</sup>[the taxable territories], shall be chargeable to income tax either in his name or in the name of his agent, and in the latter case] such agent shall be deemed to be, for all the purposes of this Act, the assessee in respect of such income-tax

<sup>1</sup> Inserted by s 46 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>2</sup> Substituted for "any person on whose behalf such income, profits or gains are received", *ibid*

<sup>3</sup> Inserted, *ibid*

<sup>4</sup> Inserted by s 5 of the Indian I T (Amendment) Act, 1946 (8 of 1946)

<sup>5</sup> Inserted by s 46 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>6</sup> Substituted for "Non residents" by s 12 of the I T and E P T (Amendment) Act, 1947 (22 of 1947)

<sup>7</sup> Substituted for "British India" by the Adaptation of Laws Order, 1950

<sup>8</sup> Substituted for the original words by s 47 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>9</sup> Substituted for "or property in British India", *ibid*

<sup>10</sup> Inserted by s 12 of the I T and E P T (Amendment) Act, 1947 (22 of 1947)

<sup>11</sup> Substituted for the original words by s 47 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

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<sup>12</sup>[Provided that where the person entitled to the income profits or gains is not resident in <sup>13</sup>[the taxable territories] the income tax so chargeable may be recovered by deduction under any of the provisions of section 18 and that] any arrears of tax may be recovered also in accordance with the provisions of this Act from any assets of the non resident person on which are, or may at any time come, within <sup>13</sup>[the taxable territories] ]

<sup>14</sup>[Provided further that any such agent, or any person who apprehends that he may be assessed as such an agent, may retain out of any money payable by him to such non resident person a sum equal to his estimated liability under this sub section, and in the event of any disagreement between the non resident person and such agent or person as to the amount to be so retained, such agent or person may secure from the Income tax Officer a certificate stating the amount to be so retained pending final settlement of the liability, and the certificate so obtained shall be his warrant for retaining that amount

Provided further that the amount recoverable from such agent or person at the time of final settlement shall not exceed the amount specified in such certificate except to the extent to which such agent or person may at such time have in his hands additional assets of such non resident person ]

(R. 34) (2) Where a person not resident <sup>14</sup>[or not ordinarily resident] in <sup>13</sup>[the taxable territories] <sup>15</sup>\* \* \* \* carries on business with a person resident in <sup>13</sup>[the taxable territories], and it appears to the Income tax Officer <sup>16</sup>\* \* \* \* that owing to the close connection <sup>17</sup>[between such persons the course of business is so arranged that the business done by the resident person with the person not resident or not ordinarily resident] produces to the resident either no profits or less than the ordinary profits which might be expected to arise in that business, the profits derived therefrom or which may reasonably be deemed to have been derived therefrom, shall be chargeable to income tax in the name of the resident person who shall be deemed to be, for all the purposes of this Act, the assessee in respect of such income tax

<sup>17</sup>[(3) In the case of a business of which all the operations are not carried out in <sup>13</sup>[the taxable territories], the profits and gains of the business deemed under this section to accrue or arise in <sup>13</sup>[the taxable territories] shall be only such profits and gains as are reasonably attributable to that part of the operations carried out in <sup>13</sup>[the taxable territories] ]

43 Agent to include persons treated as such—Any person employed by or on behalf of a person residing out of <sup>13</sup>[the taxable territories], or having any business connection with such person, or through whom such person is in the receipt of any income, profits or gains upon whom the Income-tax Officer has caused a notice to be served of his intention of treating him as the agent of the non-resident person shall, for all the purposes of this Act, be deemed to be such agent

<sup>18</sup>[Provided that where transactions are carried on in the ordinary course of business through a broker in <sup>13</sup>[the taxable territories] in such

<sup>12</sup> Substituted for " Provided that " by s 17 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>13</sup> Substituted for " British India " by the Adaptation of Laws Order, 1950

<sup>14</sup> Inserted by s 47 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>15</sup> Certain words were omitted, *ibid*

<sup>16</sup> " Or the Assistant Commissioner, as the case may be " omitted, *ibid*

<sup>17</sup> Substituted, *ibid*

<sup>18</sup> Inserted by s 48 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

circumstances that the broker does not in respect of such transactions deal directly with or on behalf of a non-resident principal but deals with or through a non-resident broker who is carrying on such transactions in the ordinary course of his business and not as a principal such first-mentioned broker shall not be deemed to be an agent under this section in respect of such transactions ]

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Provided <sup>18</sup>[further] that no person shall be deemed to be the agent of a non-resident person, unless he has had an opportunity of being heard by the Income-tax Officer as to his liability

<sup>20</sup>[*Explanation* —A person, whether residing in or out of <sup>21</sup>[the taxable territories], who acquires, after the 28th day of February, 1947, whether by sale, exchange or transfer, a capital asset in <sup>21</sup>[the taxable territories] from a person residing out of <sup>21</sup>[the taxable territories] shall, for the purposes of charging to tax the capital gain arising from such sale, exchange or transfer, be deemed to have a business connection, within the meaning of this section, with such person residing out of <sup>21</sup>[the taxable territories] ]

<sup>22</sup>[44 Liability in case of firm or association discontinued or dissolved — (1) Where any business, profession or vocation carried on by a firm or other association of persons has been discontinued or where a firm or other association of persons is dissolved, the Income-tax Officer shall make an assessment of the total income of the firm or other association of persons as such as if no such discontinuance or dissolution had taken place

(2) If the Income-tax Officer, the Appellate Assistant Commissioner or the Appellate Tribunal in the course of any proceedings under this Act in respect of any such firm or other association of persons as is referred to in sub-section (1) is satisfied that the firm or other association is guilty of any of the acts specified in clause (a) or clause (b) or clause (c) of sub-section (1) of section 28, he or it may impose or direct the imposition of a penalty in accordance with the provisions of that section

(3) Every person who was at the time of such discontinuance or dissolution a partner of the firm or a member of the association, as the case may be, shall be jointly and severally liable for the amount of tax or penalty payable, and all the provisions of Chapter IV so far as may be, shall apply to any such assessment or imposition of penalty ]

## <sup>23</sup>[CHAPTER V-A

### SPECIAL PROVISIONS RELATING TO CERTAIN CLASSES OF SHIPPING

44A Liability to tax of occasional shipping —The provisions of this Chapter shall, notwithstanding anything contained in the other provisions of this Act, apply for the purpose of the levy and recovery of tax in the case of any person who resides out of <sup>21</sup>[the taxable territories] and carries on business in <sup>21</sup>[the taxable territories] in any year as the owner or charterer of a ship (such person hereinafter in this Chapter being referred to as the principal), unless the Income-tax Officer is satisfied that there is an agent of such principal from whom the tax will be recoverable in the following year under the other provisions of this Act

<sup>19</sup> Inserted, *ibid*

<sup>20</sup> Inserted by s 13 of the I T and E P T (Amendment) Act, 1947 (22 of 1947)

<sup>21</sup> Substituted for "British India" by the Adaptation of Laws Order, 1950

<sup>22</sup> Substituted by s 49 of the Indian I T (Amendment) Act, 1939 (7 of 1939), and again substituted by s 11 of the Finance Act, 1958, with effect from the 1st April, 1958

<sup>23</sup> Inserted by s 3 of the Indian I T (Further Amendment) Act, 1923 (27 of 1923)

**Div 1**      **44B** Return of profits and gains —(1) Before the departure from any  
**Ss**      port in <sup>24</sup>[the taxable territories] of any ship in respect of which the pro-  
**44B-44D**      visions of this Chapter apply, the master of the ship shall prepare and furnish  
to the Income tax Officer a return of the full amount paid or payable to the  
principal, or to any person on his behalf on account of the carriage of all  
passengers, live stock or goods shipped at that port since the last arrival  
of the ship thereat

(2) On receipt of the return, the Income tax Officer shall assess the  
amount referred to in sub-section (1), and for this purpose may call for  
such accounts or documents as he may require, and <sup>25</sup>[one sixth] of the  
amount so assessed shall be deemed to be the amount of the profits and  
gains accruing to the principal on account of the carriage of the passen-  
gers, live stock and goods shipped at the port

(3) When the profits and gains have been assessed as aforesaid, the  
Income tax Officer shall determine the sum payable as tax thereon at the  
rate for the time being applicable to the total income of a company, and  
such sum shall be payable by the master of the ship, and a port-clearance  
shall not be granted to the ship until the Customs collector, or other officer  
duly authorised to grant the same, is satisfied that the tax has been duly  
paid

**44C** Adjustment —Nothing in this Chapter shall be deemed to prevent  
a principal from claiming, <sup>1</sup>[in the year] following that in which any payment  
has been made on his behalf under this Chapter, that an assessment be made  
of his total income in the previous year, and that the tax payable on the  
basis thereof be determined in accordance with the other provisions of this  
Act, and, if he so claims, any such payment as aforesaid shall be treated as a  
payment in advance of the tax and the difference between the sum so paid  
and the amount of tax found payable by him shall be paid by him or refunded  
to him, as the case may be ]

## 2[CHAPTER V-B

### SPECIAL PROVISIONS RELATING TO AVOIDANCE OF LIABILITY TO INCOME-TAX AND SUPER TAX

**44D** Avoidance—of income-tax by transactions resulting in the  
transfer of income to persons resident or ordinarily resident abroad —  
(1) Where any person has, by means of a transfer of assets, by virtue or  
in consequence whereof, either alone or in conjunction with associated  
operations, any income which if it were the income of such person would  
be chargeable to income tax becomes payable to a person not resident or  
to a person resident but not ordinarily resident in <sup>24</sup>[the taxable territories],  
acquired any rights by virtue or in consequence of which he has within the  
meaning of this section power to enjoy such income, whether forthwith or in  
the future, that income shall, whether it would or would not have been  
chargeable to income tax apart from the provisions of this section, be

<sup>24</sup> Substituted for "British India" by the Adaptation of Laws Order, 1950

<sup>25</sup> Substituted for "one twentieth" by s 3 of the Finance Act, 1950 (25 of 1950),  
with effect from the 1st April, 1950

<sup>1</sup> Substituted for "in any year" by s 50 of the Indian I T (Amendment) Act, 1939  
(7 of 1939)

<sup>2</sup> Inserted by s 51, *ibid*

deemed to be income of such first mentioned person for all the purposes of this Act Div  
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(2) Where any person receives or is entitled to receive, whether before or after any transfer of assets by virtue or in consequence whereof either alone or in conjunction with associated operations any income becomes payable to a person not resident or resident but not ordinarily resident in <sup>24</sup>[the taxable territories], any sum paid or payable by way of a loan or repayment of a loan or any other sum, being a sum which is not paid or payable for full consideration in money or money's worth, paid or payable otherwise than as income, such income shall, whether it would or would not have been chargeable to income tax apart from the provisions of this section, be deemed to be the income of the first-mentioned person for all the purposes of this Act

(3) Sub-sections (1) and (2) shall not apply if such first mentioned person shows to the satisfaction of the Income-tax Officer either—

- (a) that neither the transfer nor any associated operation had for its purpose or for one of its purposes the avoidance of liability to taxation, or
- (b) that the transfer and all associated operations were *bona fide* commercial transactions and were not designed for the purpose of avoiding liability to taxation

(4) For the purposes of this section, an "associated operation" means, in relation to any transfer, an operation of any kind effected by any person in relation to any of the assets transferred or any assets representing whether directly or indirectly any of the assets transferred, or to the income arising from any such assets, or to any assets representing whether directly or indirectly the accumulations of income arising from any such assets

(5) A person shall, for the purposes of this section, be deemed to have power to enjoy income of a person not resident, or resident but not ordinarily resident, in <sup>24</sup>[the taxable territories], if—

- (a) the income is in fact so dealt with by any person as to be calculated at some point of time and, whether in the form of income or not, to enure for the benefit of the first-mentioned person, or
- (b) the receipt or accrual of the income operates to increase the value to such first-mentioned person of any assets held by him or for his benefit, or
- (c) such first-mentioned person receives or is entitled to receive at any time any benefit provided or to be provided out of that income or out of moneys which are or will be available for the purpose by reason of the effect or successive effects of the associated operations on that income and on any assets which represent that income, or
- (d) such first-mentioned person has power by means of the exercise of any power of appointment or power of revocation or otherwise to obtain for himself, whether with or without the consent of any other person, the beneficial enjoyment of the income, or
- (e) such first-mentioned person is able, in any manner whatsoever and whether directly or indirectly, to control the application of the income

(6) In determining whether a person has power to enjoy income within the meaning of this section, regard shall be had to the substantial result

**Div. 1** and effect of the transfer and any associated operations, and all benefits  
**Ss** which may at any time accrue to such person as a result of the transfer  
**44D,44E** and any associated operations shall be taken into account irrespective of the nature or form of the benefits

(7) For the purposes of this section—

- (a) the expression "assets" includes property or rights of any kind, and the expression "transfer" in relation to rights includes the creation of those rights,
- (b) the expression "benefit" includes a payment of any kind,
- (c) references to income of a person not resident or of a person not ordinarily resident in <sup>3</sup>[the taxable territories] shall, where the amount of the income of a company for any year or period has been deemed to have been distributed under sub section (1) of section 23A, include references to so much of the income of the company for that year or period as is equal to the amount deemed to have been distributed to that person,
- (d) references to assets representing any assets, income or accumulations of income include references to shares in or obligation of any company to which, or obligation of any other person to whom, those assets, that income or those accumulations are or have been transferred,
- (e) any body corporate incorporated outside <sup>3</sup>[the taxable territories] shall be treated as if it were resident out of <sup>3</sup>[the taxable territories] whether it is so resident or not

(8) The provisions of this section shall apply for the purposes of assessment to income tax and super-tax for the year ending on the 31st day of March, 1940, and subsequent years, and shall apply, in relation to transfers of assets and associated operations whether carried out before or after the commencement of the Indian Income-tax (Amendment) Act, 1939

(9) Where any person has been charged to tax on any income deemed to be his under the provisions of this section, and that income is subsequently received by him, whether as income or in any other form, it shall not again be deemed to form part of his income for the purposes of this Act

**44E Avoidance of tax by certain transactions in securities—**(1) Where the owner of any securities (in this sub section and in sub-section (2) referred to as "the owner") agrees to sell or transfer those securities, and by the same or any collateral agreement—

- (a) agrees to buy back or re-acquire the securities, or
- (b) acquires an option, which he subsequently exercises, to buy back or re-acquire the securities,

then, if the result of the transaction is that any interest becoming payable in respect of the securities is receivable otherwise than by the owner, the interest payable as aforesaid shall, whether it would or would not have been chargeable to tax apart from the provisions of this section, be deemed for all the purposes of this Act to be the income of the owner and not to be the income of any other person

(2) The references in sub section (1) to buying back or re acquiring the securities shall be deemed to include references to buying or acquiring

<sup>3</sup> Substituted for ' British India ' by the Adaptation of Laws Order, 1950



similar securities, so, however, that where similar securities are bought or acquired, the owner shall be under no greater liability to tax than he would have been under if the original securities had been bought back or re-acquired D  
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(3) Where any person carrying on a business which consists wholly or partly in dealing in securities agrees to buy or acquire any securities, and by the same or any collateral agreement—

- (a) agrees to sell back or re-transfer the securities, or
- (b) acquires an option, which he subsequently exercises, to sell back or re-transfer the securities,

then, if the result of the transaction is that any interest becoming payable in respect to the securities is receivable by him, no account shall be taken of the transaction in computing for any of the purposes of this Act the profits arising from or loss sustained in the business

(4) Sub-section (3) shall have effect, subject to any necessary modifications, as if references to selling back or re-transferring the securities included references to selling or transferring similar securities

(5) For the purpose of this section—

- (a) the expression “interest” includes a dividend,
- (b) the expression “securities” includes stocks and shares,
- (c) securities shall be deemed to be similar if they entitle their holders to the same rights against the same persons as to capital and interest and the same remedies for the enforcement of those rights, notwithstanding any difference in the total nominal amounts of the respective securities or in the form in which they are held or the manner in which they can be transferred

(6) The Income-tax Officer may by notice in writing require any person to furnish him within such time as he may direct (not being less than twenty-eight days), in respect of all securities of which such person was the owner at any time during the period specified in the notice, such particulars as he considers necessary for the purposes of this section and for the purpose of discovering whether tax has been borne in respect of the interest on all those securities, and, if that person without reasonable excuse fails to comply with the notice, he shall be liable to a penalty not exceeding five hundred rupees and to a further penalty of the like amount for every day after the infliction of such penalty during which the failure continues

**44F Avoidance of tax by sales cum-dividend**—(1) Any person upon whom notice is served by the Income tax Officer requiring him to furnish a statement of particulars relating to any securities in which, at any time during the period specified in the notice he has had any beneficial interest, and in respect of which, within such period, either no income was received by him, or the income received by him was less than the sum to which the income would have amounted if the income from such securities had accrued from day to day and been apportioned accordingly, shall, whether an assessment to income tax or super-tax in respect of his total income has or has not been made for the relevant year or years of assessment, furnish such a statement and such particulars in the form and within the time (not being less than twenty eight days) required by the notice

(2) If it appears to the Income-tax Officer by reference to all the circumstances in relation to the securities of any such person (including circumstances with respect to sales, purchases, dealings, contracts, arrangements, transfers, or any other transactions relating to such securities) that

Div 1 such person has thereby avoided or would avoid more than ten per cent  
 Ss of the amount of the income tax or super tax for any year which would  
 44F, 45 have been payable in his case in respect of the income from those securities if the income had been deemed to accrue from day to day and had been apportioned accordingly, and the income so deemed to have been apportioned to him had been treated as part of his total income from all sources for the purposes of income tax or super tax, then those securities shall be deemed to be securities to which sub-section (3) applies

(3) For the purposes of assessment to income tax or super-tax in the case of any such person, the income from any securities to which this sub-section applies shall be deemed to accrue from day to day, and in the case of the sale or transfer of any such securities by or to him shall be deemed to have been received as and when it is deemed to have accrued

Provided that this section shall not apply if such person proves to the satisfaction of the Income-tax Officer that the avoidance of income tax or super tax was exceptional and not systematic and that there was not in his case in any of the three preceding years any such avoidance of income-tax or super-tax, or that the provisions of section 11E have been applied in his case in respect of such income

(4) If any person fails to furnish any statement or particulars required under this section, or if the Income-tax Officer is not satisfied with any statement or particulars furnished under this section, the Income tax Officer may make an estimate of the amount of the income which, under the foregoing provisions of this section, is to be deemed to form part of the person's total income for the purposes of income tax or super-tax

(5) If any person without reasonable excuse fails to furnish any statement or particulars required under this section, he shall be liable to a penalty not exceeding five hundred rupees, and to a further penalty of the like amount for every day after the infliction of such penalty during which the failure continues

(6) For the purpose of this section the expression "securities" includes stocks and shares ]

## CHAPTER VI

### RECOVERY OF TAX AND PENALTIES

45 Tax when payable — Any amount specified as payable in a notice of demand <sup>4</sup>[under sub-section <sup>5</sup>[(3)] of section 23A or] under section 29 or an order under section 31 <sup>6</sup>\* \* \* or section 33, shall be paid within the time, at the place and to the person mentioned in the notice or order, or if a time is not so mentioned, then on or before the first day of the second month following the date of the service of the notice or order, and any assessee failing so to pay shall be deemed to be in default, provided that, when an assessee has presented an appeal under section 30 <sup>7</sup>\* \* \*, the Income-tax Officer may in his discretion treat the assessee as not being in default as long as such appeal is undisposed of

<sup>4</sup> Inserted by s 8 of the Indian I T (Amendment) Act 1930 (21 of 1930)

<sup>5</sup> Substituted for ' (4) ' by s 52 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>6</sup> " Or section 32 " omitted by s 23 of the Indian I T (Amendment) Act, 1941 (23 of 1941)

<sup>7</sup> " Or under section 33A " omitted by s 52 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>8</sup>[Provided further that where an assessee has been assessed in respect of income arising outside <sup>9</sup>[the taxable territories] in a country the laws of which prohibit or restrict the remittance of money to <sup>9</sup>[the taxable territories], the Income-tax Officer shall not treat the assessee as in default in respect of that part of the tax which is due in respect of that amount of his income which by reason of such prohibition or restriction cannot be brought into <sup>9</sup>[the taxable territories], and shall continue to treat the assessee as not in default in respect of such part of the tax until the prohibition or restriction is removed]

*Explanation* —For the purposes of this section income shall be deemed to have been brought into <sup>9</sup>[the taxable territories] if it has been utilized or could have been utilized for the purposes of any expenditure actually incurred by the assessee without <sup>9</sup>[the taxable territories] or if the income whether capitalized or not has been brought into <sup>9</sup>[the taxable territories] in any form ]

**46 Mode and time of recovery** —(1) When an assessee is in default in making a payment of income tax, the Income-tax Officer may in his discretion direct that, in addition to the amount of the arrears, a sum not exceeding that amount shall be recovered from the assessee by way of penalty

<sup>10</sup>[(1A) For the purposes of sub section (1), the Income-tax Officer may direct the recovery of any sum less than the amount of the arrears and may enhance the sum so directed to be recovered from time to time in the case of a continuing default, so however that the total sum so directed to be recovered shall not exceed the amount of the arrears payable ]

(2) The Income tax Officer may forward to the Collector a certificate under his signature specifying the amount of arrears due from an assessee, and the Collector, on receipt of such certificate, shall proceed to recover from such assessee the amount specified therein as if it were an arrear of land revenue

<sup>11</sup>[Provided that without prejudice to the powers conferred by this sub section, the Collector shall, for the purpose of recovering the amount specified in the certificate, have also all the powers which—

(a) a Collector has under the Revenue Recovery Act, 1890 (I of 1890),

(b) a Civil Court has under the Code of Civil Procedure, 1908 (V of 1908), for the purpose of the recovery of an amount due under a decree ]

(3) In any area with respect to which the Commissioner has directed that any arrears may be recovered by any process enforceable for the recovery of an arrear of any municipal tax or local rate imposed under any enactment for the time being in force in any part of the <sup>12</sup>[State], the Income-tax Officer may proceed to recover the amount due by such process

<sup>8</sup> Inserted, *ibid*

<sup>9</sup> Substituted for "British India" by the Adaptation of Laws Order, 1950

<sup>10</sup> Inserted by s 8 of the Indian I T (Amendment) Act, 1928 (3 of 1928)

<sup>11</sup> The proviso was inserted by s 16 of the Indian I T (Second Amendment) Act, 1933 (18 of 1933), and was substituted by s 7 of the Taxation Laws (Amendment) Act, 1960 (28 of 1960) The new proviso shall be deemed to have been in the Act from the date of operation of the original proviso

<sup>12</sup> Substituted for "Province" by the Adaptation of Laws Order, 1950

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(4) The Commissioner may direct by what authority any powers or duties incident under any such enactment as aforesaid to the enforcement of any process for the recovery of a municipal tax or local rate shall be exercised or performed when that process is employed under sub section (3)

(5) If any assessee is in receipt of any income chargeable under the head "Salaries" the Income tax Officer may require any person paying the same to deduct from any payment subsequent to the date of such requisition any arrears due from such assessee, and such person shall comply with any such requisition, and shall pay the sum so deducted to the credit of the <sup>13</sup>[Central Government], or as the <sup>14</sup>[Central Board of Revenue] directs

<sup>15</sup>[(5A) The Income-tax Officer may at any time or from time to time, by notice in writing (a copy of which shall be forwarded to the assessee at his last address known to the Income tax Officer) require any person from whom money is due or may become due to the assessee or any person who holds or may subsequently hold money for or on account of the assessee to pay to the Income tax Officer, either forthwith upon the money becoming due or being held or at or within the time specified in the notice (not being before the money becomes due or is held) so much of the money as is sufficient to pay the amount due by the tax-payer in respect of arrears of income-tax and penalty or the whole of the money when it is equal to or less than that amount

The Income-tax Officer may at any time or from time to time amend or revoke any such notice or extend the time for making any payment in pursuance of the notice

Any person making any payment in compliance with a notice under this sub section shall be deemed to have made the payment under the authority of the assessee and the receipt of the Income-tax Officer shall constitute a good and sufficient discharge of the liability of such person to the assessee to the extent of the amount referred to in the receipt

Any person discharging any liability to the assessee after receipt of the notice referred to in this sub section shall be personally liable to the Income-tax Officer to the extent of the liability discharged or to the extent of the liability of the assessee for tax and penalties, whichever is less

If the person to whom a notice under this sub section is sent fails to make payment in pursuance thereof to the Income-tax Officer, further proceedings may be taken by and before the Collector on the footing that the Income tax Officer's notice has the same effect as an attachment by the Collector in exercise of his powers under the proviso to sub section (2) of section 46

Where a person to whom a notice under this sub-section is sent objects to it on the ground that the sum demanded or any part thereof is not due to the assessee or that he does not hold any money for or on account of the assessee, then, nothing contained in this section shall be deemed to require such person to pay any such sum or part thereof, as the case may be, to the Income-tax Officer ]

<sup>13</sup> Substituted for " Government of India " by the Government of India (Adaptation of Indian Laws) Order, 1937

<sup>14</sup> Substituted for " Board of Inland Revenue " by s 4 and Schedule of the Central Board of Revenue Act, 1924 (4 of 1924)

<sup>15</sup> Inserted by s 9 of the I T and B P T (Amendment) Act, 1948 (48 of 1948), with effect from the 30th March, 1948

<sup>16</sup>[(6) If the recovery of income-tax in any area has been entrusted to Div  
r <sup>17</sup>[State] Government under <sup>18</sup>[article 258(1) of the Constitution], the S  
<sup>17</sup>[State] Government may direct with respect to that area or any part thereof, that income-tax shall be recovered therein with, and as an addition to, any municipal tax, or local rate, by the same person and in the same manner as the municipal tax or local rate is recovered ]

(7) Save in accordance with the provisions of sub-section (1) of section 42, <sup>19</sup>[or of the proviso to section 45], no proceedings for the recovery of any sum payable under this Act shall be commenced after the expiration of one year from the last day of <sup>20</sup>[the financial year] in which any demand is made under this Act

<sup>21</sup>[Provided that the period of one year herein referred to shall—

- (i) where an assessee has been treated as not being in default under section 45 as long as his appeal is undisposed of, be reckoned from the date on which the appeal is disposed of,
- (ii) where recovery proceedings in any case have been stayed by any order of a Court, be reckoned from the date from which the order is withdrawn,
- (iii) where the date of payment of tax has been extended by an Income-tax authority, be reckoned from the date up to which the time for payment had been extended,
- (iv) where the sum payable is allowed to be paid by instalments, \*from the date on which the last of such instalments was due

Provided further that nothing in the foregoing proviso shall have the effect of reducing the period within which proceedings for recovery can be commenced, namely, after the expiration of one year from the last day of the financial year in which the demand is made

*Explanation*—A proceeding for the recovery of any sum shall be deemed to have commenced within the meaning of this section, if some action is taken to recover the whole or any part of the sum within the period hereinbefore referred to, and for the removal of doubts it is hereby declared that the several modes of recovery specified in this section are neither mutually exclusive, nor affect in any way any other law for the time being in force relating to the recovery of debts due to Government, and it shall be lawful for the Income-tax Officer, if for any special reasons to be recorded he so thinks fit, to have recourse to any such mode of recovery notwithstanding that the tax due is being recovered from an assessee by any other mode ]

<sup>22</sup>[(7A) For the purposes of this section, the expression "Collector" shall include—

<sup>16</sup> Substituted by the Government of India (Adaptation of Indian Laws) Order, 1937

<sup>17</sup> Substituted for "Provincial" by the Adaptation of Laws Order, 1950

<sup>18</sup> Substituted for "section 124(1) of the Government of India Act, 1935", *ibid*

<sup>19</sup> Inserted by s 53 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>20</sup> Substituted for "the year", *ibid*

<sup>21</sup> Substituted by s 21 of the Indian I T (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952

\* The words "be reckoned" which should occur here seem to have been inadvertently omitted by the draftsman

<sup>22</sup> Sub secs (8), (9) and (10) were inserted by the India (Adaptation of Income tax, Profits Tax and Revenue Recovery Acts) Order, 1947 (G O 31)

<sup>23</sup> Sub secs (7A) and (8) were substituted for sub sec (8) by s 7 of the Taxation Laws (Amendment) Act, 1960 (28 of 1960), and shall be deemed to have been in the Act from the date of operation of the original sub sec (8)

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46, 46A

(a) an additional Collector or any other officer authorised to exercise the powers of a Collector under any law for the time being in force in a State relating to land revenue, and

(b) a Collector in Pakistan

(8) The Income tax Officer may forward a certificate under sub-section (2) to a Collector in Pakistan through the Central Board of Revenue of Pakistan if the assessee has property in the district of that Collector]

(9) Where a Collector in <sup>24</sup>[the taxable territories] receives through the Central Board of Revenue of India a certificate under the signature of an Income tax Officer in Pakistan, the Collector shall proceed to recover the amount specified therein in the manner in which he would proceed to recover the amount specified in a certificate received from an Income tax Officer in <sup>21</sup>[the taxable territories], and shall remit any sum so recovered by him to the Income tax Officer in Pakistan, after deducting his expenses in connection with the recovery proceedings

(10) The provisions of sub-sections (8) and (9) shall remain in force only so long as there are in force similar provisions in this Act as in force as part of the law of Pakistan or under any other similar Act forming part of the law of Pakistan for the recovery of tax by a Collector in Pakistan on receipt of a certificate from an Income-tax Officer in <sup>24</sup>[the taxable territories]]

<sup>2a</sup>[46A Persons leaving India to obtain tax clearance certificate —

(1) Subject to such exceptions as may be made by the Central Government, no person who is not domiciled in India, or who, even if domiciled in India at the time of his departure, has, in the opinion of an Income tax authority, no intention of returning to India, shall leave the territory of India by land, sea or air unless he first obtains from such authority as may be appointed by the Central Government in this behalf (hereinafter in this section referred to as the "competent authority") a certificate stating that he has no liabilities under this Act, the Excess Profits Tax Act, 1940 (XV of 1940), or the Business Profits Tax Act, 1947 (XXI of 1947), or that satisfactory arrangements have been made for the payment of all or any of such taxes which are or may become payable by that person

Provided that if the competent authority is satisfied that such person intends to return to India, he may issue an exemption certificate either in respect of a single journey or in respect of all journeys to be undertaken by that person within such period as may be specified in the certificate

(2) If the owner or charterer of any ship or aircraft carrying persons from any place in the territory of India to any place outside the territory allows any person to whom sub-section (1) applies, to travel by such ship or aircraft without first satisfying himself that such person is in possession of a certificate as required by that sub-section, he shall be personally liable to pay the whole or any part of the amount of tax, if any, payable by such person as the Income tax Officer may, having regard to the circumstances of the case, determine

*Explanation* —For the purposes of this sub-section the expressions "owner" and "charterer" include any representative, agent or employee empowered by the owner or charterer to allow persons to travel by the ship or aircraft

<sup>1</sup> Substituted for "British India" by the Adaptation of Laws Order, 1950

<sup>2a</sup> Inserted by s. 22 of the Indian I T (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April 1952

(3) In respect of any sum payable by the owner or charterer of any ship or aircraft under sub section (2), the owner or charterer, as the case may be, shall be deemed to be an assessee in default within the meaning of sub-section (1) of section 46

(4) The Central Government may make rules for regulating any matter necessary for, or incidental to, the purpose of carrying out the provisions of this section ]

**47 Recovery of penalties**—Any sum imposed by way of penalty under the provisions of sub section (2) of section 25, section 28, <sup>1</sup>[sub-section (6) of section 44E, sub-section (5) of section 44F] or sub section (1) of section 46, <sup>2</sup>[and any interest payable under the provisions of sub-section (4), (6), (7) or (8) of section 18A] shall be recoverable in the manner provided in this Chapter for the recovery of arrear of tax

## CHAPTER VII

### REFUNDS

**<sup>3</sup>48. Refunds**—(1) If any individual, Hindu undivided family, company, local authority, firm or other association of persons, or any partner of a firm or member of an association individually satisfies the Income tax Officer or other authority appointed by the Central Government in this behalf that the amount of tax paid by him or on his behalf or treated as paid on his behalf for any year exceeds the amount with which he is properly chargeable under this Act for that year, he shall be entitled to a refund of any such excess

(2) <sup>4</sup>[The Appellate Assistant Commissioner or the Appellate Tribunal in the exercise of their appellate powers] if satisfied to the like effect shall cause a refund to be made by the Income-tax Officer of any amount found to have been wrongly paid or paid in excess

(3) Where income of one person is included under any provision of this Act in the total income of any other person such other person only shall be entitled to a refund under this section in respect of such income

(4) Nothing in this section shall operate to validate any objection or appeal which is otherwise invalid or to authorise the revision of any assessment or other matter which has become final and conclusive, or the review by any officer of a decision of his own which is subject to appeal or revision, or where any relief is specifically provided elsewhere in this Act, to entitle any person to any relief other or greater than that relief or to entitle any person to claim a refund of tax payable before the commencement of the Indian Income-tax (Amendment) Act, 1939, which he would not be entitled to claim but for the passing of that Act ]

**48A General power to make refunds**—Omitted by s 56 of the *Indian Income-tax (Amendment) Act, 1939 (VII of 1939)*

**49 Relief in respect of United Kingdom income-tax**—Omitted by (Rs s 10 of the *Income tax and B P T (Amendment) Act, 1948 (XLVIII of 1948)*, 41) with effect from the 30th March, 1948

<sup>1</sup> Inserted by s 54 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>2</sup> Inserted by s 12 of the Indian I T (Amendment) Act, 1944 (11 of 1944)

<sup>3</sup> Substituted by s 55 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>4</sup> Substituted for the original words by s 91, *ibid*

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49BB

<sup>5</sup>[49A Agreement for granting relief in respect of double taxation or for avoidance thereof—The Central Government may enter into an agreement—

- (a) \* \* \* with the Government of any country outside India for the granting of relief in respect of income on which have been paid both income-tax (including super tax) under this Act and income-tax <sup>6</sup>[in that country], or
- (b) with the Government of any country outside India for the avoidance of double taxation of income, profits and gains under this Act and under the corresponding law in force in that country, and may, by notification in the Official Gazette, make such provisions as may be necessary for implementing the agreement ]

<sup>8</sup>[49B Relief to shareholders in respect of agricultural income-tax attributable to dividends—Where a company pays to a shareholder any dividend out of its profits and gains which is assessed to agricultural income-tax by any State Government, the shareholder shall be entitled to a reduction from the tax payable by him under this Act, of a sum equal to—

- (a) that proportion of the agricultural income-tax (including super tax, if any) paid by the company as the amount of the dividend attributable to the profits of the company assessed to agricultural income tax bears to its total profits assessed to agricultural income tax, reduced by the amount of refund, if any, allowed to him by the State Government, or
- (b) where the shareholder—
  - (i) is not a company, the amount of income-tax (but not super-tax) payable by him under this Act, and
  - (ii) is a company, twenty per cent ,
 on that portion of the dividend which is attributable to the profits of the company assessed to agricultural income tax, whichever is less ]

<sup>10</sup>[49BB Relief to company in respect of dividend paid out of past taxed profits—(1) Where in respect of any previous year relevant to the assessment year commencing after the 31st day of March, 1960, an Indian company or a company which has made the prescribed arrangements for the declaration and payment of dividends within India, pays any dividend wholly or partly out of its profits and gains actually charged to income tax for any assessment year ending before the 1st day of April, 1960, and deducts tax therefrom in

<sup>5</sup> Ss 49A, 49B, 49C and 49D were inserted by s 58 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>6</sup> Substituted for the original ss 49A and 49AA by s 3 of the Finance Act, 1953 (14 of 1953), with effect from the 1st April 1953 (S 49 1A had been inserted by the India (Adaptation of Income tax, Profits Tax and Revenue Recovery Acts) Order, 1947 (G G O 31))

<sup>7</sup> "With the Government of the State of Jammu and Kashmir or" omitted by s 2 and Schedule of the Taxation Laws (Extension to Jammu and Kashmir) Act, 1954 (41 of 1954)

<sup>8</sup> Substituted for "in that State or in that country, as the case may be", *ibid*  
<sup>9</sup> Substituted by s 25 of the Indian I T (Amendment) Act, 1941 (23 of 1941), and again substituted by s 14 of the Finance Act, 1959, with effect from the 1st April 1960. However, in relation to dividends declared or payable by a company on or before the 30th June 1960, in respect of any previous year relevant to any assessment year prior to the assessment year 1960-61, the Income tax Act shall have effect as if the latter substitution had not been made and in relation to dividends declared or payable by a company in respect of the previous year relevant to the assessment year 1960-61 the said substitution shall have effect on and from the 1st April, 1959 (See s 3 of the Finance Act, 1960 )

<sup>10</sup> Inserted by s 12 of the Finance Act, 1960, with effect from the 1st April, 1960



accordance with the provisions of section 18, credit shall be given to the company against the income-tax, if any, payable by it on the profits and gains of the previous year during which the dividend is paid, of a sum calculated in accordance with the provisions of sub section (2), and where the amount of credit so calculated exceeds the income-tax payable by the company as aforesaid, the excess shall be refunded

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49D

(2) The amount of income-tax to be given as credit under sub-section (1) shall be a sum equal to ten per cent of so much of the dividends referred to in sub-section (1) as are paid out of the profits and gains actually charged to income-tax for any assessment year ending before the 1st day of April, 1960

*Explanation I* —For the purposes of this section, the aggregate of the dividends declared by a company in respect of any previous year shall be deemed first to have come out of the distributable income of that previous year and the balance, if any, out of the undistributed part of the distributable income of one or more previous years immediately preceding that previous year as would be just sufficient to cover the amount of such balance and as has not likewise been taken into account for covering such balance of any other previous year

*Explanation II* —The “distributable income” of any previous year shall mean the total income assessed for that year as reduced by—

- (i) the amount of income-tax and super-tax payable by the company in respect of the said total income,
- (ii) the amount of any other tax levied under any law for the time being in force on the company by the Government or by a local authority in excess of the amount, if any, which has been allowed in computing the total income,
- (iii) the amount paid to any charitable institution or fund to the extent to which it is exempt from tax under section 15B, and
- (iv) in the case of a banking company, the amount actually transferred to a reserve fund under section 17 of the Banking Companies Act, 1949 (X of 1949),

and as increased by—

- (a) any profits and gains or receipts of the company not included in its total income, and
- (b) any amount attributable to any allowance made in computing the profits and gains of the company for purposes of assessment, which the company has not taken into account in its profit and loss account ]

**49C Relief granted to a company to be deemed relief granted to shareholder** —*Omitted by s 15 of the Finance Act, 1959, with effect from the 1st April, 1960 However, in relation to dividends declared or payable by a company on or before the 30th June, 1960, in respect of any previous year relevant to any assessment year prior to the assessment year 1960-61, the Income-tax Act shall have effect as if the omission had not been made, and in relation to dividends declared or payable by a company in respect of the previous year relevant to the assessment for the year 1960-61, the omission shall have effect on and from the 1st April, 1959 (See s 3 of the Finance Act, 1960)*

<sup>11</sup>[**49D Relief in respect of incomes accruing or arising outside the taxable territories** —(1) If any person who is resident in the taxable territories

<sup>11</sup> Substituted by s 24 of the Indian I T (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952

**Div. 1** in any year proves that, in respect of his income which accrues or arises during  
**Ss.** that year without the taxable territories (and which is not deemed to accrue  
**49D, 49E** or arise in the taxable territories), he has paid in any country, with which there is no reciprocal arrangement for relief or avoidance of double taxation, income tax, by deduction or otherwise, under the law in force in that country, he shall be entitled to the deduction from the Indian income tax payable by him of a sum calculated on such doubly taxed income at the Indian rate of tax or the rate of tax of the said country, whichever is the lower

(2) The Central Government may, by notification in the Official Gazette, declare that the provisions of sub section (1) shall also apply in relation to any such income accruing or arising in the United Kingdom and chargeable under this Act for the year ending on the 31st day of March, 1950, or for the year ending on the 31st day of March, 1951, or for the year ending on the 31st day of March, 1952

<sup>12</sup>(3) If any person who is resident in the taxable territories in any year proves that in respect of his income which accrues or arises to him during that year in Pakistan he has paid in that country, by deduction or otherwise, tax payable to the Government under any law for the time being in force in that country relating to taxation of agricultural income, he shall be entitled to a deduction from the Indian income tax payable by him—

(a) of the amount of the tax paid in Pakistan under any law aforesaid on such income which is liable to tax under this Act also, or

(b) of a sum calculated on that income at the Indian rate of tax, whichever is less

(4) Sub section (3) shall apply in relation to all assessments for the years subsequent to the year ending on the 31st day of March, 1948, and, notwithstanding anything contained in section 50, a claim for refund in respect of any of the years ending on the 31st day of March of the years 1949 to 1952 inclusive, may be entertained if made before the 31st day of March, 1957 ]

*Explanation*—In this section,—

(i) the expression “Indian income tax” means income-tax and super-tax charged in accordance with the provisions of this Act,

(ii) the expression “Indian rate of tax” means the rate determined by dividing the amount of Indian income tax after deduction of any relief due under the other provisions of this Act but before deduction of any relief due under this section, by the total income,

(iii) the expression “rate of tax of the said country” means income-tax and super-tax actually paid in the said country in accordance with the corresponding laws of the said country after deduction of all reliefs due, but before deduction of any relief due in the said country in respect of double taxation, divided by the whole amount of the income assessed in the said country,

(iv) the expression “income tax in relation to any country” includes any excess profits tax or business profits tax charged on the profits by the Government of that country and not by the Government of any part of that country or a local authority in that country ]

<sup>13</sup>[<sup>13</sup>49E] Power to set off amount of refunds against tax remaining payable—Where under any of the provisions of this Act, a refund is found

<sup>12</sup> Inserted by s 23 of the Finance Act, 1956, with effect from the 1st April, 1956

<sup>13</sup> The existing s 49E was originally inserted as s 49A by s 19 of the Indian I T (Second Amendment) Act, 1933 (18 of 1933), and was re numbered by s 59 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

to be due to any person, the Income tax Officer, <sup>11</sup>[Appellate Assistant Commissioner] or Commissioner, as the case may be, may, in lieu of payment of the refund, set off the amount to be refunded, or any part of that amount against the tax, <sup>12</sup>[interest or penalty], if any, remaining payable by the person to whom the refund is due ]

<sup>16</sup>[49EE Power to set off in certain cases moneys in the possession of Government against tax found due under assessments etc., thereafter to be made —(1) Where in pursuance of any settlement relating to the assessment, reassessment or case of any person made or purported to have been made before the 17th day of January, 1959, whether under this Act or otherwise, any sum of money or any security for the payment of any sum of money has been paid or furnished by him, or on his behalf by any other person, no claim for the refund of any sum so paid or for the return of any security so furnished shall be entertained or allowed on the ground that the settlement is invalid—

(a) in any case where a notice under section 34 in respect of the income, profits or gains relating to the settlement aforesaid has been issued before the 17th day of January, 1959, and

(b) in any other case, for a period of two years from that date and, if during the period of the said two years any notice under section 34 is issued, pending the completion of the assessment, reassessment or settlement in pursuance of such notice,

and, accordingly, no application, suit or other legal proceeding for the refund of any such money or the return of any such security shall lie or be allowed to continue—

(i) pending the completion of the assessment, reassessment or settlement in pursuance of the notice referred to in clause (a), or

(ii) during the period of two years referred to in clause (b) or pending the completion of the assessment, reassessment or settlement in pursuance of the notice referred to in that clause

(2) The Income-tax Officer, Appellate Assistant Commissioner or the Commissioner, as the case may be, may set off the amount referred to in sub section (1) or the amount of the security referred to in that sub section which may be realised for the purpose against the tax, interest, penalty or any other sum which may become payable by reason of any assessment, reassessment or settlement made in pursuance of the notice referred to in clause (a) of that sub section or in pursuance of any such notice issued within the period of two years referred to in clause (b) of that sub section

(3) In computing the period of limitation prescribed for any legal proceeding in relation to any such sum or security aforesaid, the time during which any such proceedings cannot be instituted by reason of the provisions contained in sub section (1) shall be excluded ]

<sup>17</sup>[<sup>17</sup>49F] Power of representative of deceased person or person disabled to make claim on his behalf —Where through death, incapacity, bankruptcy, liquidation or other cause, a person who would but for such cause have been entitled to a refund under any of the provisions of this Act, or to make a claim under section 48 <sup>18</sup>\* or 49, is unable to receive such refund or to make

<sup>14</sup> Substituted for "Assistant Commissioner", *ibid* (7 of 1939)

<sup>15</sup> Inserted by s 25 of the Indian I T (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952

<sup>16</sup> Inserted by s 3 of the Indian I T (Amendment) Act, 1959 (1 of 1959)

<sup>17</sup> The existing s 49F was originally inserted as s 49B by s 19 of the Indian I T (Second Amendment) Act, 1933 (18 of 1933), and was re numbered by s 60 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>18</sup> "Or 48A" omitted, *ibid* (7 of 1939)

**Div 1** such claim, his executor, administrator or other legal representative, or the  
**Ss** trustee or receiver, as the case may be, shall be entitled to receive such refund  
**49F-51** or to make such claim for the benefit of such person or his estate ]

**50 Limitation of claims for refund**—No claim to any refund of income-tax <sup>19</sup>[or super tax] under this Chapter shall be allowed, unless it is made within <sup>20</sup>[four years from the last day of the financial year commencing next after the expiry of the previous year in which the income arose, accrued or was received or was deemed to have arisen, accrued or been received or was brought into <sup>21</sup>[the taxable territories]]

Provided that where the claim is to a refund of income-tax or super tax paid prior to the commencement of the Indian Income tax (Amendment) Act, 1939, the claim shall not be allowed unless it is made within one year from the last day of the year in which the tax was recovered or before the last day of the financial year commencing after the expiry of the previous year as defined in clause (11) of section 2 in which the income arose on which the tax was recovered, whichever period may expire later ]

<sup>22</sup>[Provided <sup>23</sup>[further] that a claim to refund under section 49 <sup>24</sup>[of tax paid prior to the commencement of the Indian Income tax (Amendment) Act, 1939], may be admitted after the period of limitation herein prescribed, when the applicant satisfies the Commissioner, or an Assistant Commissioner of Income tax specially empowered in this behalf by the Central Board of Revenue, that he had sufficient cause for not making the claim within such period ]

**50A Appeal against refusal of refund**—*Omitted by s 62 of the Indian Income tax (Amendment) Act, 1939 (VII of 1939)*

## CHAPTER VIII

### OFFENCES AND PENALTIES

**51 Failure to make payments or deliver returns or statements or allow inspection**—If a person fails without reasonable cause or excuse—

- (a) to deduct and pay any tax as required by section 18 or under sub section (5) of section 46
- (b) to furnish a certificate required by sub section (9) of section 18 <sup>24\*</sup> to be furnished,
- (c) to furnish in due time any of the returns mentioned in <sup>25</sup>[section 19A], <sup>1</sup>[section 20A], section 21, <sup>2</sup>[sub section (2) of] section 22, or section 38,

<sup>19</sup> Inserted by s 61 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>20</sup> Substituted for the original words, *ibid*

<sup>21</sup> Substituted for "British India" by the Adaptation of Laws Order, 1950

<sup>22</sup> Inserted by s 8 of the Indian I T (Second Amendment) Act, 1930 (22 of 1930)

<sup>23</sup> Inserted by s 61 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>24</sup> "Or by section 20" omitted by s 16 of the Finance Act, 1959, with effect from the 1st April, 1959. However in relation to dividends declared or payable by a company on or before the 30th June 1960 in respect of any previous year relevant to any assessment year prior to the assessment year 1960-61, the Income tax Act shall have effect as if the omission had not been made. (See s 3 of the Finance Act, 1960)

<sup>25</sup> Inserted by s 3 of the Indian I T (Amendment) Act, 1926 (24 of 1926)

<sup>1</sup> Inserted by s 21 of the Indian I T (Second Amendment) Act 1933 (18 of 1933)

<sup>2</sup> Inserted by s 63 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

- (d) to produce, or cause to be produced, on or before the date mentioned in any notice under sub section (4) of section 22, such accounts and documents as are referred to in the notice, **Div. Ss 51-54**
- (e) to grant inspection or allow copies to be taken in accordance with the provisions of section 39,

he shall, on conviction before a Magistrate, be punishable with fine which may extend to ten rupees for every day during which the default continues

**52 False statement in declaration**—If a person makes a statement in a verification mentioned in <sup>3</sup>[section 19A or] <sup>4</sup>[section 20A <sup>5</sup>[or section 21] or] section 22 <sup>6</sup>[or sub section (2) of section 26A] or sub section (3) of section 30 <sup>7</sup>[or sub section (3) of section 33] <sup>8\*</sup> <sup>9</sup>[or furnishes a certificate under sub section (9) of section 18,] which is false, and which he either knows or believes to be false, or does not believe to be true, he shall <sup>10</sup>[be punishable, on conviction before a Magistrate, with simple imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both]

**53 Prosecution to be at instance of Inspecting Assistant Commissioner**—(1) A person shall not be proceeded against for an offence under section 51 or section 52 except at the instance of the <sup>11</sup>[Inspecting Assistant Commissioner]

<sup>12</sup>[(2) The Inspecting Assistant Commissioner may either before or after the institution of proceedings compound any such offence]

**54 Disclosure of information by a public servant**—(1) All particulars contained in any statement made, return furnished or accounts or documents produced under the provisions of this Act, or in any evidence given, or affidavit or deposition made, in the course of any proceedings under this Act other than proceedings under this Chapter, or in any record of any assessment proceeding, or any proceeding relating to the recovery of a demand, prepared for the purposes of this Act, shall be treated as confidential, and notwithstanding anything contained in the Indian Evidence Act, 1872 (I of 1872), no court shall, save as provided in this Act, be entitled to require any public servant to produce before it any such return, accounts, documents or record or any part of any such record, or to give evidence before it in respect thereof

(2) If a public servant discloses any particulars contained in any such statement, return, accounts, documents, evidence, affidavit, deposition or record, he shall be punishable with imprisonment which may extend to six months, and shall also be liable to fine

<sup>13\*</sup> <sup>13</sup>[(3)] Nothing in this section shall apply to the disclosure—

<sup>3</sup> Inserted by s 4 of the Indian I T (Amendment) Act, 1926 (24 of 1926)

<sup>4</sup> Inserted by s 22 of the Indian I T (Second Amendment) Act, 1933 (18 of 1933)

<sup>5</sup> Inserted by s 64 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>6</sup> Inserted by s 9 of the Indian I T (Amendment) Act, 1930 (21 of 1930)

<sup>7</sup> Substituted for "or sub section (2) of section 32" by s 28 of the Indian I T (Amendment) Act, 1941 (23 of 1941)

<sup>8</sup> "Or sub section (2) of section 33A or sub section (3) of section 50A" omitted by s 64 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>9</sup> Inserted by s 17 of the Finance Act, 1959, with effect from the 1st April, 1959

<sup>10</sup> Substituted for "be deemed to have committed the offence described in section 177 of the Indian Penal Code," by s 64 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>11</sup> Substituted for "Assistant Commissioner" by s 65, *ibid*

<sup>12</sup> Substituted, *ibid*

<sup>13</sup> The words "Provided that" were omitted and the proviso was numbered sub sec (3) by s 66, *ibid*

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- (a) of any such particulars for the purposes of a prosecution under <sup>14</sup>\* the Indian Penal Code (XIV of 1860) in respect of any such statement, return, accounts, documents, evidence, affidavit or deposition, or for the purposes of a prosecution under this Act, or
- <sup>15</sup>[(b) of any such particulars to any person acting in the execution of this Act or of the Taxation on Income (Investigation Commission) Act, 1947 (XXX of 1947), where it is necessary or desirable to disclose the same to him for the purposes of either this Act or the Taxation on Income (Investigation Commission) Act, 1947, or]
- (c) of any such particulars occasioned by the lawful employment under this Act of any process for the service of any notice or the recovery of any demand, or
- <sup>16</sup>[(d) of any such particulars to a Civil Court in any suit <sup>17</sup>[or proceeding] to which Government <sup>18</sup>[or any Income tax authority] is a party, which relates to any matter arising out of any proceeding under this Act <sup>18</sup>[or under any other law for the time being in force authorising any Income tax authority to exercise any powers thereunder], or
- <sup>19</sup>[(e) of any such particulars to the Comptroller and Auditor-General of India for the purpose of enabling him to discharge his functions under the Constitution, or]
- (f) of any such particulars to any officer appointed by the <sup>20</sup>[Comptroller and Auditor-General of India] or the Central Board of Revenue to audit income-tax receipts or refunds, or
- (g) of any such particulars, relevant to any inquiry into the conduct of an official of the Income-tax Department, to any persons appointed Commissioners under the Public Servants (Inquiries) Act, 1850 (XXXVII of 1850), or to an Officer otherwise appointed to hold such inquiry, or to a Public Service Commission established under <sup>21</sup>[the Constitution] when exercising its functions in relation to any matter arising out of any such inquiry, or]
- <sup>22</sup>[(gg) of any such particulars, relevant to any inquiry into a charge of misconduct in connection with income tax proceedings against a lawyer or <sup>23</sup>[chartered] accountant, to the authority referred to in sub section (3) of section 61, when exercising the functions referred to in that sub section,] <sup>24</sup>[or]

<sup>14</sup> "Section 193 of" omitted by s 9 of the Indian I T (Second Amendment) Act, 1930 (22 of 1930)

<sup>15</sup> Substituted by s 26 of the Indian I T (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952

<sup>16</sup> Cls (d) to (g) were inserted by s 66 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>17</sup> Inserted by s 18 of the Taxation Laws (Extension to Merged States and Amendment) Act 1949 (67 of 1949)

<sup>18</sup> Inserted by s 26 of the Indian I T (Amendment) Act 1953 (25 of 1953), with effect from the 1st April, 1952

<sup>19</sup> Substituted by the Adaptation of Laws Order, 1950

<sup>20</sup> Substituted for 'Auditor General of India', *ibid*

<sup>21</sup> Substituted for "the Government of India Act, 1935", *ibid*

<sup>22</sup> Inserted by s 4 of the I T Law Amendment Act, 1940 (12 of 1940)

<sup>23</sup> Substituted for "registered" by s 26 of the Indian I T (Amendment) Act, 1953 (25 of 1953) with effect from the 1st April, 1952

<sup>24</sup> Inserted by s 3 and Second Schedule of the Repealing and Amending Act 1942 (25 of 1942)

- <sup>25</sup>[<sup>25</sup>[(h)] of any such particulars occasioned by the lawful exercise by a public servant of his powers under the Indian Stamp Act, 1899 (II of 1899), to impound an insufficiently stamped document, or]
- <sup>1</sup>[(i) of such facts, to an authorised officer of the United Kingdom, 2\* \* \* or of any part of His Majesty's Dominions which has entered into an agreement with <sup>3</sup>[India] for the granting of double taxation relief, as may be necessary for the purpose of enabling such relief or a refund under section 49 <sup>4</sup>[or section 49AA] of this Act to be given, or
- (j) of such facts, to an officer of a <sup>5</sup>[State] Government, as may be necessary for the purpose of enabling that Government to levy or realise any tax imposed by it <sup>6</sup>\* \* \*, or
- (k) of such facts, to any authority exercising powers under the Sea Customs Act, 1878 (VIII of 1878), or any <sup>7</sup>[Central Act] imposing a duty of excise as may be necessary for enabling it duly to exercise such powers, or
- (l) of such facts, <sup>8</sup>[to any person charged by law with the duty of inquiring into the qualifications of electors], as may be necessary to establish whether a person is or is not entitled to be entered on an electoral roll, or
- (m) <sup>9</sup>[of] so much of such particulars, to the appropriate authority, as may be necessary to establish whether a person has or has not been assessed to income tax in any particular year or years, where under the provisions of any law for the time being in force such fact is required to be established,] <sup>10</sup>[or]
- <sup>10</sup>[(n) of such particulars to the Reserve Bank of India as are required by that Bank to enable it to compile financial statistics of international investments and balance of payments, or
- (o) of such information as may be required by any officer or department of the Central Government or of a <sup>11</sup>[State] Government for the purpose of investigation into the conduct and affairs of any public servant,]
- <sup>12</sup>[(p) of any such particulars to the Custodian of Evacuee Property appointed under the Administration of Evacuee Property Act, 1950, for the purpose of enabling him to discharge the duties imposed upon him by or under the said Act ]

<sup>25</sup> The original cl (cc) was inserted by s 23 of the Indian I T (Second Amendment) Act, 1933 (18 of 1933), and was re lettered "(h)" by s 66 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>1</sup> Cls (i) to (m) were substituted for the original cl (d), *ibid* (7 of 1939)

<sup>2</sup> "Or of any Indian State" omitted by the Adaptation of Laws Order, 1950

<sup>3</sup> Substituted for "British India", *ibid*

<sup>4</sup> Inserted by the India (Adaptation of Income tax, Profits Tax and Revenue Recovery Acts) Order, 1947 (G G O 31)

<sup>5</sup> Substituted for "Provincial" by the Adaptation of Laws Order, 1950

<sup>6</sup> "On agricultural income" omitted by s 18 of the Taxation Laws (Extension to Merged States and Amendment) Act, 1949 (67 of 1949)

<sup>7</sup> Substituted for "Act of the Central Legislature" by the Adaptation of Laws Order, 1950

<sup>8</sup> Substituted for "to a Returning Officer", by s 29 of the Indian I T (Amendment) Act, 1941 (23 of 1941)

<sup>9</sup> Inserted by s 4 of the I T Law Amendment Act, 1940 (12 of 1940)

<sup>10</sup> Inserted by s 3 of the Indian I T (Amendment) Act, 1948 (55 of 1948)

<sup>11</sup> Substituted for "Provincial" by the Adaptation of Laws Order, 1950

<sup>12</sup> Inserted by s 57 of the Administration of Evacuee Property Act, 1950 (31 of 1950), and is to have effect during the continuance of the Act

subject to the provisions of this Chapter, the total income of any <sup>24</sup>[individual, Hindu undivided family, company, <sup>25</sup>[local authority], unregistered firm or other <sup>1</sup>[association of persons]] shall, for the purposes of super-tax, be the total income as assessed for the purposes of income-tax, and where an assessment of total income has become final and conclusive for the purposes of income-tax for any year, the assessment shall also be final and conclusive for the purposes of super-tax for the same year

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<sup>3</sup>[56A Exemption from super-tax of certain dividends — (1) No super-tax shall be payable by a company on such part of its total income as consists of dividends received from an Indian company formed and registered after the 31st day of March, 1952, where—

(i) the Central Government is satisfied that the Indian company is wholly or mainly engaged in an industry for the manufacture or production of any one or more of the following, namely —

(1) Coal, including coke and other derivatives,

<sup>4</sup>[(2) Iron and steel (metal), ferro-alloys, and special steels,]

(3) Motor and aviation fuel, kerosene, crude oils and synthetic oils (not being oil exploration),

<sup>5</sup>[(4) Chemicals (other than fertilisers) of the following types —

(i) Inorganic heavy chemicals,

(ii) Organic heavy chemicals,

(iii) Fine chemicals including photographic chemicals,

(iv) Synthetic rubber,

(v) Man-made fibres other than viscose rayon,

(vi) Coke oven by-products,

(vii) Coal-tar distillation products like naphthalene, anthracene and the like,

(viii) Explosives including gun-powder and safety fuses,

(4A) Inorganic, organic and mixed fertilisers,

(5) Industrial machinery of the following types (including gear wheels and parts thereof, boilers and steam generating plants) —

*A Major items of specialised equipment used in specific industries*

(i) Textile machinery (such as frames, carding machines, power-looms and the like) including textile accessories,

(ii) Jute machinery,

(iii) Rayon machinery,

<sup>24</sup> Substituted for "individual, unregistered firm, Hindu undivided family or company" by s 8 read with s 11 of the Indian I T (Amendment) Act, 1924 (11 of 1924), with effect from the 1st April, 1923

<sup>25</sup> Inserted by s 68 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>1</sup> Substituted for "association of individuals", *ibid*

<sup>2</sup> The proviso was omitted by s 10 of the Indian I T (Amendment) Act, 1928 (3 of 1928)

<sup>3</sup> Inserted by s 3 of the Finance Act, 1953 (14 of 1953), with effect from the 1st April, 1953

<sup>4</sup> Substituted by s 8 of the Taxation Laws (Amendment) Act, 1960 (28 of 1960), with effect from the 1st April, 1960

<sup>5</sup> Substituted for items (4) and (5), *ibid*, with effect from the 1st April, 1960



- (15) Locomotives ,
- (16) Rolling stock ,
- (17) Machine tools ,
- (18) Agricultural implements ,
- (19) Ferro manganese ,
- (20) Dye stuffs ,]
- <sup>7</sup>[(21) Refractories,]

as specified in the First Schedule to the Industries (Development and Regulation) Act, 1951 (LXV of 1951), and

- (ii) the income of the Indian company would have been exempt under the operation of section 15C if the provisions of that section had been applicable thereto

(2) The exemption specified in sub-section (1) shall apply also to dividends payable to a company in respect of any fresh capital raised by an Indian company after the 28th day of February, 1953, by public subscription for the purpose of increasing the production of, or starting a separate unit of, any one or more of the items specified in clause (i) of sub-section (1) ]

**57 Non-resident partners and shareholders**—*Omitted by s 69 of the Indian Income-tax (Amendment) Act, 1939 (VII of 1939)*

**58 Application of Act to super-tax**—(1) All the provisions of this Act <sup>8</sup>[relating to the charge, assessment, collection and recovery of income-tax except those contained in] section 3, <sup>9</sup>[the first proviso] to sub-section (1) of section 7, <sup>10</sup>[the second and third provisos to section 8], <sup>11</sup>[clauses (a) and (b) of sub-section (2) of section 14], and sections 15, <sup>12</sup>[15A], <sup>13\*</sup> <sup>14\*</sup> 19, <sup>15</sup><sup>16\*</sup> and the first proviso to sub-section (1) of section 41 and section] <sup>17\*</sup> <sup>18</sup><sup>19\*</sup> 58F and <sup>20</sup>[sub section (2)] of section 58G] shall apply, so far as may be, to the charge, assessment, collection and recovery of super-tax

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<sup>7</sup> Inserted by s 10 of the Finance Act, 1961, with effect from the 1st April, 1961  
<sup>8</sup> Substituted for "except" by s 25 of the Indian I T (Second Amendment) Act, 1933 (18 of 1933)

<sup>9</sup> Substituted for "the second proviso" by s 24 of the Finance Act, 1956, with effect from the 1st April, 1956

<sup>10</sup> Substituted for "the proviso to section 8" by s 25 of the Indian I T (Second Amendment) Act, 1933 (18 of 1933)

<sup>11</sup> Substituted for "sub section (2) of section 14" by s 30 of the Indian I T (Amendment) Act, 1941 (23 of 1941)

<sup>12</sup> Inserted by s 7 of Ordinance No. 9 of 1945

<sup>13</sup> "17" omitted by s 70 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>14</sup> "18" omitted by s 25 of the Indian I T (Second Amendment) Act, 1933 (18 of 1933)

<sup>15</sup> Substituted for "20" by s 70 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>16</sup> "And 20" omitted by s 18 of the Finance Act, 1959, with effect from the 1st April, 1959. However, in relation to dividends declared or payable by a company on or before the 30th June, 1960, in respect of any previous year relevant to any assessment year prior to the assessment year 1960-61, the Income tax Act shall have effect as if the omission had not been made (See s 3 of the Finance Act, 1960)

<sup>17</sup> "21" omitted by s 70 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>18</sup> Substituted for "and 48" by s 25 of the Indian I T (Second Amendment) Act, 1933 (18 of 1933)

<sup>19</sup> "48" omitted by s 70 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>20</sup> Substituted for "sub sections (2) and (3)", *ibid*

<sup>21</sup> The proviso was omitted by s 25 of the Indian I T (Second Amendment) Act, 1933 (18 of 1933)

## 3[CHAPTER IX A

## SPECIAL PROVISIONS RELATING TO CERTAIN CLASSES OF PROVIDENT FUNDS

**58A Definitions** - In this Chapter, unless there is anything repugnant in the subject or context,—

- (a) a "recognised provident fund" means a provident fund which has been and continues to be recognised by the Commissioner in accordance with the provisions of this Chapter,
- (b) in "employer" means—
  - (i) a Hindu undivided family, company, firm or other association of <sup>22</sup> \* persons, or
  - (ii) an individual engaged in a business, profession or vocation whereof the profits and gains are assessable to income tax under section 10, <sup>23</sup> \* maintaining a provident fund for the benefit of his or its employees,
- (c) an "employee" means an employee participating in a provident fund, but does not include a personal or domestic servant
- (d) a "contribution" means any sum credited by or on behalf of any employee out of his salary, or by an employer out of his own moneys, to the individual account of an employee, but does not include any sum credited as interest,
- (e) the "balance to the credit" of an employee means the total amount to the credit of his individual account in a provident fund at any time,
- (f) the "annual accretion" to the balance to the credit of an employee means the increase to such balance in any year, arising from contributions and interest,
- (g) the "accumulated balance due" to an employee means the balance to his credit, or such portion thereof as may be claimable by him under the regulations of the fund, on the day he ceases to be an employee of the employer maintaining the fund, and
- (h) the "regulations of a fund" means the special body of regulations governing the constitution and administration of a particular provident fund

<sup>22</sup> Inserted by s 25 of the Indian I T (Second Amendment) Act 1933 (18 of 1933)

<sup>23</sup> Substituted for "sub sections (3A), (3B), (3C) and (3D)" by s 70 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>24</sup> Substituted for "(3B), (3C) (3D) and (3E)" by s 24 of the Finance Act, 1956, with effect from the 1st April, 1956

<sup>25</sup> Substituted for "(3A)" by s 19 of the Finance Act, 1959, with effect from the 1st April, 1959

<sup>1</sup> "Section 57" omitted by s 70 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>2</sup> Inserted by s 1 of the Indian I T (Provident Funds Relief) Act, 1929 (12 of 1929)

<sup>3</sup> Inserted by s 5, *ibid*

<sup>4</sup> "Individuals or" omitted by s 71 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>5</sup> "Or section 11" omitted, *ibid*

**58B The according and withdrawal of recognition**—(1) The Commissioner of Income tax may accord recognition to any provident fund which, in his opinion, satisfies the conditions prescribed in section 58C and the rules made thereunder, and may, at any time, withdraw such recognition if, in his opinion, the provident fund contravenes any of those conditions

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<sup>6</sup>[(2)] An order according recognition shall take effect on such date as the Commissioner may fix in accordance with any rules the Central Board of Revenue may make in this behalf, such date not being later than the last day of the financial year in which the order is made

<sup>6</sup>[(3)] An order withdrawing recognition shall take effect from the day on which it is made

<sup>7</sup>[(3A)] An order according recognition to a provident fund shall not, unless the Commissioner otherwise directs, be affected by the fact that the fund is subsequently amalgamated with another provident fund on the occurrence of an amalgamation of the undertakings in connection with which the two funds are maintained, or that it subsequently absorbs the whole or a part of another provident fund belonging to an undertaking which is wholly or in part transferred to or merged in the undertaking of the employer maintaining the first mentioned fund ]

<sup>8</sup>[(4)] An employer objecting to an order of the Commissioner refusing to recognise <sup>9</sup>[or an order withdrawing recognition from] a provident fund may appeal, within sixty days of such order, to the Central Board of Revenue

The appeal shall be in the form and shall be verified in the manner prescribed by the Central Board of Revenue

**58C Conditions to be satisfied by a recognised provident fund**—(1) In order that a provident fund may receive and retain recognition, it shall satisfy the conditions set out below and any other conditions which the <sup>10</sup>[Central Government] may, by rule, prescribe—

(a) All employees shall be employed in India, or shall be employed by an employer whose principal place of business is in <sup>11</sup>[the taxable territories]

<sup>12</sup>[Provided that the Commissioner may, if he thinks fit and subject to such conditions, if any, as he thinks proper to attach to the recognition, accord recognition to a fund maintained by an employer whose principal place of business is not in <sup>11</sup>[the taxable territories] notwithstanding that a proportion not exceeding ten per cent of the employees is employed outside India ]

(b) The contributions of an employee in any year shall be a definite proportion of his salary for that year, and shall be deducted by the employer from the employee's salary in that proportion, at

<sup>6</sup> Sub sec (2) was omitted and sub secs (3), (4) and (5) were renumbered "(2)", "(3)" and "(4)" respectively by s 72, *ibid*

<sup>7</sup> Inserted by s 9 of the Indian I T (Amendment) Act, 1940 (40 of 1940)

<sup>8</sup> Sub sec (5) was renumbered "(4)" by s 72 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>9</sup> Inserted by s 72 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>10</sup> Substituted for "Governor General in Council" by the Government of India (Adaptation of Indian Laws) Order, 1937

<sup>11</sup> Substituted for "British India" by the Adaptation of I T Laws Order, 1950

<sup>12</sup> Inserted by s 10 of the Indian I T (Amendment) Act, 1940 (40 of 1940)

In such cases the recoveries made by the employer shall be limited to the contributions made by him to the individual account of the employee, and to interest (simple and compound) credited in respect of such contributions and accumulations thereof, in accordance with the regulations of the fund Div 1  
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- (g) The accumulated balance due to an employee shall be payable on the day he ceases to be an employee of the employer maintaining the fund, <sup>21</sup>[unless at the request of the employee made in writing, the trustees of the fund consent to retain the whole or any part of the accumulated balance due to the employee in the fund to be drawn by him at any time on demand]
- (h) Save as provided in clause (g), or in accordance with such conditions and restrictions as the <sup>22</sup>[Central Government] may, by rules, prescribe, no portion of the balance to the credit of an employee shall be payable to him

(2) Where there is a repugnance between any regulation of a recognised provident fund and any provision of this Chapter or of the rules made thereunder, the regulation shall, to the extent of the repugnance, be of no effect

The Commissioner may, at any time, require that such repugnance shall be removed from the regulations of the fund

**58D Power to relax restrictions of employer's contributions in certain cases**—Subject to any rules which the <sup>22</sup>[Central Government] may make in this behalf, the Commissioner may, in respect of any particular fund, relax the provisions of condition (c) of sub-section (1) of section 58C—

- (a) so as to permit the payment of larger contributions by an employer to the individual accounts of employees whose salary does not exceed five hundred rupees per mensem, and
- (b) so as to permit the crediting by employers to the individual accounts of employees of periodical bonuses or other contributions of a contingent nature, where the calculation and payment of such bonuses or other contributions is provided for on definite principles by the regulations of the fund

<sup>23</sup>[**58E Annual contributions of employers and interest when deemed to be income received**—That portion of the annual accretion in any year to the balance at the credit of an employee participating in a recognised provident fund as consists of—

- (a) contributions made by the employer in excess of ten per cent of the salary of the employee, and
- (b) interest credited on the balance to the credit of the employee in so far as it exceeds one third of the salary of the employee or is allowed at a rate exceeding the rate fixed by the Central Government in this behalf by notification in the Official Gazette,

<sup>21</sup> Inserted by s 27 of the Indian IT (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952

<sup>22</sup> Substituted for "Governor General in Council" by the Government of India (Adaptation of Indian Laws) Order, 1937

<sup>23</sup> Substituted by s 9 of the Finance (No 2) Act, 1957 The amendment, for the purposes of making any deduction of income tax under sub sec (2) or (2B) of s 18 shall have effect on and from the 1st April, 1957 and for other purposes shall have effect on and from the 1st April 1958

Div 1 shall be deemed to have been received by him in that year and shall be included in his total income for that year, and shall be liable to income tax and super-tax]

Ss  
58E-  
58H

<sup>24</sup>[58F Exemption of employees' contributions from income-tax —An employee shall not be liable to pay income tax on his own contributions to his individual account in a recognised provident fund in so far as the aggregate of such contributions in any year does not exceed one fifth of his salary in that year or eight thousand rupees, whichever is less]

58G Exemption of accumulated balance from income-tax and super-tax —<sup>25</sup>[(1) Where the accumulated balance due to an employee participating in a recognised provident fund becomes payable, such accumulated balance shall be exempt from payment of super tax except to the extent of an amount equal to the aggregate of the amounts of super-tax on annual accretions that would have been payable under section 58E up to the 1st day of April, 1933, if the Indian Income tax (Second Amendment) Act, 1933 (XVIII of 1933), had come into force on the 15th March, 1930]

<sup>1</sup>[(2)] Where an employee participating in a recognised provident fund has rendered continuous service with his employer for a period of not less than five years, and the accumulated balance due to him becomes payable, such accumulated balance shall be exempt from payment of income tax <sup>24</sup> \* and shall be excluded from the computation of his total income

Provided that the Commissioner of Income-tax may allow such exemption and exclusion where the employee has rendered continuous service with the employer for a period of less than five years, if, in his opinion, the service has been terminated by reason of the employee's ill health, or by the contraction or discontinuance of the employer's business, or other cause beyond the control of the employee

<sup>3</sup>[(3)] Where exemption from payment of income-tax is not allowed under the provisions of <sup>4</sup>[sub section (2)], the Income tax Officer shall calculate the total of the various sums of income tax <sup>5</sup>[and super-tax which would have been payable by the employee in respect of his total income for each of the years concerned if the fund had not been a recognised provident fund, and the amount by which such total exceeds the total of all sums paid by or on behalf of such employee by way of tax for such years shall be payable by the employee in addition to any other income tax and super tax] for which he may be liable for the year in which the accumulated balance due to him becomes payable

58H Deduction at source of income-tax payable on accumulated balances due —The trustees of a recognised provident fund, or other person authorised by the regulations of the fund to make payment of accumulated balances due to employees, shall, at the time an accumulated balance due

<sup>-1</sup> Substituted by s 10 of the Finance (No 2) Act, 1957 The amendment, for the purposes of making any deduction of income tax under sub sec (2) or (2B) of s 18 shall have effect on and from the 1st April, 1957, and for other purposes shall have effect on and from the 1st April 1958

<sup>6</sup> Inserted by s 26 of the Indian I T (Second Amendment) Act, 1933 (18 of 1933)

<sup>1</sup> The original sub sec (1) was re numbered " (2) " *ibid*

"And super tax " omitted *ibid*

<sup>3</sup> The original sub sec (2) was re numbered " (3) ", *ibid*

<sup>4</sup> Substituted for 'sub section (1) ', *ibid*

<sup>5</sup> Substituted for the original words by s 74 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

to an employee is paid, deduct therefrom any income-tax payable under [sub section (3)] of section 58G and any income tax and super tax payable on an employee's total income as determined under sub section (3) of section 58J, and sub-sections (4) to (9) of section 18 shall apply as if the sum to be deducted were income-tax payable under the head "Salaries" Dir 1  
Ss  
58H-58J

**58I. Accounts of recognised provident funds**—(1) The accounts of a recognised provident fund shall be maintained by the trustees of the fund and shall be in such form and for such periods, and shall contain such particulars as the Central Board of Revenue may prescribe

(2) The accounts shall be open to inspection at all reasonable times by Income-tax authorities, and the trustees shall furnish to the Income tax Officer such abstracts thereof as the Central Board of Revenue may prescribe

**58J Treatment of balances in newly recognised provident funds**—(1) Where recognition is accorded to a provident fund with existing balances, an account shall be made of the fund up to the day before the day on which the recognition takes effect showing the balance to the credit of each employee on such day, and containing such further particulars as the Central Board of Revenue may prescribe

(2) The account shall also show in respect of the balance to the credit of each employee the amount thereof which is to be transferred to that employee's account in the recognised provident fund, and such amount (hereinafter called his transferred balance) shall be shown as the balance to his credit in the recognised provident fund on the date on which the recognition of the fund takes effect, and sub sections (3) and (4) shall apply thereto

Any portion of the balance to the credit of an employee in the existing fund which is not transferred to the recognised fund shall be excluded from the accounts of the recognised fund and shall be liable to income-tax and super-tax in accordance with the provisions of this Act other than this Chapter

(3) Subject to such rules as the Central Board of Revenue may make in this behalf, the Income-tax Officer shall make a calculation of the aggregate of all sums comprised in a transferred balance which would have been liable to income tax if this Chapter had been in force from the date of the institution of the fund, without regard to any tax which may have been paid on any such sum, and such aggregate (if any) shall be deemed to be income received by the employee in the year in which the recognition of the fund takes effect, and shall be included in the employee's total income for that year, and, for the purposes of assessment the remainder of the transferred balance shall be disregarded, but no other exemption or relief by way of refund or otherwise, shall be granted in respect of any sum comprised in such transferred balance

Provided that, in cases of serious accounting difficulty, the Commissioner shall have power, subject to the said rules, to make a summary calculation of such aggregate

(4) Notwithstanding anything contained in condition (k) of sub section (1) of section 58C, an employee, in order to enable him to pay the amount of tax assessed on his total income as determined under sub section (3), shall be entitled to withdraw from the balance to his credit in the recognised provident fund a sum not exceeding the difference be

<sup>4</sup>Substituted for 'sub section (2)' by s. 2 and Sch. I of the Provident Fund Amending Act, 1954 (21 of 1954)

**Div 1** between such amount and the amount to which he would have been  
**Ss** assessed if the transferred balance had not been included in his total  
**58J-58L** income

(5) Nothing in this section shall affect the rights of the persons administering an unrecognised provident fund or dealing with it, or with the balance to the credit of any individual employee, before recognition is accorded, in any manner which may be lawful

**58K Treatment of fund transferred by employer to trustee—**(1) Where an employer who maintains a provident fund (whether recognised or not) for the benefit of his employees and has not transferred the fund or any portion of it, transfers such fund or portion to trustees in trust for the employees participating in the fund, the amount so transferred shall be deemed to be of the nature of capital expenditure

(2) When an employee participating in such fund is paid the accumulated balance due to him therefrom, any portion of such balance as represents his share in the amount so transferred to the trustee (without addition of interest, and exclusive of the employee's contributions and interest thereon) shall, "[if the employer has made effective arrangements to secure that tax shall be deducted at source from the amount of such share when paid to the employee,] be deemed to be an expenditure by the employer within the meaning of <sup>8</sup>[clause (xi)] of sub section (2) of section 10, incurred in the year in which the accumulated balance due to the employee is paid

**58L Provisions relating to rules—**(1) All rules made under this Chapter shall be subject to the provisions of sub sections (4) and (5) of section 59

(2) In addition to any power conferred by this Chapter, the <sup>9</sup>[Central Government] may make rules—

- (a) prescribing the statements and other information to be submitted with an application for recognition,
- (b) limiting the contributions to a recognised provident fund by employees of a company who are shareholders in the company,
- (c) providing for the assessment by way of penalty of any consideration received by an employee for an assignment of, or creation of a charge upon, his beneficial interest in a recognised provident fund,
- (d) determining the extent to and the manner in which exemption from payment of income tax and super-tax may be granted in respect of contributions and interest credited to the individual accounts of employees in a provident fund from which recognition has been withdrawn, and
- (e) generally, to carry out the purposes of this Chapter and to secure such further control over the recognition of provident funds and the administration of recognised provident funds as <sup>10</sup>[it] may deem requisite

<sup>7</sup> Inserted by s 75 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>8</sup> Substituted for ' clause (xi) ' by s 26 of the Finance Act 1956 with effect from the 1st April, 1956

<sup>9</sup> Substituted for " Governor General in Council " by the Government of India (Adaptation of Indian Laws) Order, 1937

<sup>10</sup> Substituted for " he ", *ibid*

**58M. Application of this Chapter**—This Chapter shall not apply to any provident fund to which the Provident Funds Act, 1925 (XIX of 1925), applies ]

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Ss  
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58P

## **<sup>11</sup>[CHAPTER IX-B**

### **SPECIAL PROVISIONS RELATING TO CERTAIN CLASSES OF SUPERANNUATION FUNDS**

**58N Definitions**—In this Chapter unless there is anything repugnant in the subject or context,—

- (a) “approved superannuation fund” means a superannuation fund or any part of a superannuation fund which has been and continues to be approved by the Central Board of Revenue in accordance with the provisions of this Chapter,
- (b) “employer”, “employee” and “contribution” have, in relation to superannuation funds, the meanings assigned to those expressions in section 58A in relation to provident funds,
- (c) “ordinary annual contribution” means an annual contribution of a fixed amount or an annual contribution computed on some definite basis by reference to the earnings, the contributions or the number of members of the fund

**58O Approval and withdrawal of approval**—(1) The Central Board of Revenue may accord approval to any superannuation fund or any part of a superannuation fund which in its opinion complies with the requirements of section 58P, and may at any time withdraw such approval, if in its opinion the circumstances of the fund or part cease to warrant the continuance of the approval

(2) The Central Board of Revenue shall communicate in writing to the trustees of the fund the grant of approval with the date on which the approval is to take effect, and, where the approval is granted subject to conditions, those conditions

(3) The Central Board of Revenue shall communicate in writing to the trustees of the fund any withdrawal of approval with the reasons for such withdrawal and the date on which the withdrawal is to take effect

(4) The Central Board of Revenue shall neither refuse nor withdraw approval to any superannuation fund or any part of a superannuation fund unless it has given the trustees of that fund a reasonable opportunity of being heard in the matter

**58P Conditions for approval**—In order that a superannuation fund may receive and retain approval the following conditions shall be satisfied, namely —

- (a) the fund shall be a fund established under an irrevocable trust in connection with a trade or undertaking carried on in <sup>12</sup>[the taxable territories],
- (b) the fund shall have for its sole purpose the provision of annuities for employees in the trade or undertaking on their retirement at

<sup>11</sup> Inserted by s 76 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>12</sup> Substituted for “British India” by the Adaptation of Laws Order, 1950



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58P-58R

or after a specified age or on their becoming incapacitated prior to such retirement, or for the widows, children or dependants of persons who are or have been such employees on the death of those persons, and

- (c) the employer in the trade or undertaking shall be a contributor to the fund

Provided that the Central Board of Revenue may, if it thinks fit and subject to such conditions, if any, as it thinks proper to attach to the approval, approve a fund or any part of a fund—

- (i) notwithstanding that the rules of the fund provide for the return in certain contingencies of contributions paid to the fund, or
- (ii) if the main purpose of the fund is the provision of such annuities as aforesaid, notwithstanding that such provision is not its sole purpose, or
- (iii) notwithstanding that the trade or undertaking in connection with which the fund is established is carried on only partly in <sup>13</sup>[the taxable territories]

**58Q Application for approval**—(1) An application for approval of a superannuation fund or part of a superannuation fund for any year of assessment shall be made in writing before the end of that year by the trustees of the fund to the Income-tax Officer, and shall be accompanied by a copy of the instrument under which the fund is established and by two copies of the rules and of the accounts of the fund for the last year for which such accounts have been made up. The Central Board of Revenue may require such further information to be supplied as it thinks proper

(2) If any alteration in the rules, constitution, objects or conditions of the fund is made at any time after the date of the application for approval, the trustees of the fund shall forthwith communicate such alteration to the Income-tax Officer, and in default of such communication any approval given shall, unless the Central Board of Revenue otherwise orders, be deemed to have been withdrawn from the date on which the alteration took effect

**58R Exemption of superannuation fund from income-tax**—Income derived from investments or deposits of an approved superannuation fund <sup>14</sup>[and any capital gains arising from the sale, exchange or transfer of capital assets of such fund] shall be exempt from payment of income-tax, and any sum paid by an employer or an employee by way of contribution towards an approved superannuation fund shall, in the case of an employer, be deducted in computing his income, profits or gains for the purpose of assessment, and, in the case of an employee, be treated for all the purposes of this Act as if it were a sum to which the provisions of section 15 apply

Provided that no such exemption shall be allowable to an employee in respect of any sum which is not an ordinary annual contribution

Provided further that where a contribution by an employer is not an ordinary annual contribution it shall, for the purposes of this section, be treated, as the Central Board of Revenue may direct, either as an expense

<sup>13</sup> Substituted for "British India" by the Adaptation of Laws Order, 1950

<sup>14</sup> Inserted by s. 15 of the I.T. and E.P.T. (Amendment) Act, 1947 (22 of 1947)

incurred in the year in which the sum is paid, or as an expense to be spread over such period of years as the Central Board of Revenue thinks proper

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58R-

**58S. Treatment of repaid contributions**—(1) Where any contributions (including interest on contributions, if any) are repaid to an employee, the amount so repaid shall be deemed for the purposes of income-tax <sup>15\*</sup> to be income of the employee for that year

(2) Where any contributions (including interest on contributions, if any) are repaid to an employee during his lifetime but not at or in connection with the termination of his employment income tax on the amount so repaid or paid shall, except in the case of an employee whose employment was carried on abroad, be deducted by the trustees of the fund at the average rate of tax at which the employee was liable to income-tax <sup>15\*</sup> during the preceding three years or during such period, if less than three years, as he was a member of the fund, and shall be paid by the trustees to the credit of the Central Government within the prescribed time and in such manner as the Central Board of Revenue may direct (R 11)

**58T Deduction from pay of, and contributions on behalf of, employee to be included in return under section 21**—Where an employer deducts from the emoluments paid to an employee or pays on his behalf any contributions of that employee to an approved superannuation fund, he shall include all such deductions or payments in the return which he is required to furnish under section 21

**58U Liabilities of trustees on cessation of approval of fund**—If a fund or a part of a fund for any reason ceases to be an approved superannuation fund, the trustees of the fund shall nevertheless remain liable to account for tax on any sum paid—

(a) on account of returned contributions (including interest on contributions, if any), and

(b) in commutation or in lieu of annuities,

in so far as the sum so paid is in respect of contributions made before the fund or part of the fund ceased to be an approved fund under the provisions of this Chapter

**58V Particulars to be furnished in respect of superannuation funds**—The trustees of an approved superannuation fund and any employer who contributes to an approved superannuation fund shall, when required by notice from the Income-tax Officer, within twenty-one days of the date of such notice —

(a) furnish to the Income-tax Officer a return containing such particulars of contributions made to the fund as the notice may require,

(b) prepare and deliver to the Income tax Officer a return containing—

(i) the name and place of residence of every person in receipt of an annuity from the fund,

(ii) the amount of the annuity payable to each annuitant,

(iii) particulars of every contribution (including interest on contributions, if any) returned to the employer or to employees, and

<sup>15</sup> "And super tax" omitted by s 5 of the I T Law Amendment Act, 1940 (12 of 1940)

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- (iv) particulars of sums paid in commutation or in lieu of annuities,  
(c) furnish to the Income-tax Officer a copy of the accounts of the fund to the last date prior to such notice to which such accounts have been made up, together with such other information and particulars as the Central Board of Revenue may reasonably require ]

## CHAPTER X

### MISCELLANEOUS

59 Power to make rules—(1) The <sup>16</sup>[Central Board of Revenue] may, subject to the control of the <sup>17</sup>[Central Government], make rules for carrying out the purposes of this Act and for the ascertainment and determination of any class of income. Such rules may be made for the whole of <sup>18</sup>[the taxable territories] or for such part thereof as may be specified

(2) Without prejudice to the generality of the foregoing power, such rules may—

- (a) prescribe the manner in which, and the procedure by which, the income, profits and gains shall be arrived at in the case of—

- (i) incomes derived in part from agriculture and in part from business,

19\* \* \* \*

<sup>19</sup>[(ii)] persons residing out of <sup>18</sup>[the taxable territories],

- <sup>20</sup>[(aa)] provide for the determination of the value of any perquisite chargeable to tax under this Act in such manner and on such basis as appears to the Central Board of Revenue to be proper and reasonable

Provided that the rules made in respect of the matters specified in this clause on the first occasion they are made shall not be subject to the condition of previous publication and may be given retrospective effect from such date as the Central Board of Revenue thinks fit,]

- (b) prescribe the procedure to be followed on applications for refunds,

- <sup>21</sup>[(c)] prescribe the procedure for giving effect to the terms of any agreement <sup>22</sup>[for the granting of relief in respect of double

<sup>16</sup> Substituted for "Board of Inland Revenue" by s 4 and Schedule of the Central Board of Revenue Act, 1924 (4 of 1924)

<sup>17</sup> Substituted for "Governor General in Council" by the Government of India (Adaptation of Indian Laws) Order, 1937

<sup>18</sup> Substituted for "British India" by the Adaptation of Laws Order, 1950

<sup>19</sup> The original sub cl (ii) was omitted and sub cl (iii) was re numbered "(ii)" by s 77 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>20</sup> Inserted by s 12 of the Finance Act, 1958, with effect from the 1st April, 1958

<sup>21</sup> Substituted for the original cls (c) and (d) by s 28 of the Indian I T (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April 1952

<sup>22</sup> Substituted for "for the avoidance of double taxation on income which may be entered into by the Central Government under section 49AA" by s 27 of the Finance Act, 1956, with effect from the 1st April 1956

taxation or for the avoidance of double taxation which may be entered into by the Central Government under this Act], Div. 1  
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59, 59A

(d) \* \* \* \*

(e) provide for any matter which by this Act is to be prescribed

<sup>23</sup>[(3) In cases coming under clause (a) of sub section (2), where the income, profits and gains liable to tax cannot be definitely ascertained, or can be ascertained only with an amount of trouble and expense to the assessee which, in the opinion of the Central Board of Revenue, is unreasonable, the rules made under that sub section may—

(a) prescribe methods by which an estimate of such income, profits and gains may be made, and

(b) in cases coming under sub-clause (1) of clause (a) of sub section (2), prescribe the proportion of the income which shall be deemed to be income, profits and gains liable to tax,

and an assessment based on such estimate or proportion shall be deemed to be duly made in accordance with the provisions of this Act ]

<sup>24</sup>[(4)] The power to make rules conferred by this section shall, except on the first occasion of the exercise thereof, be subject to the condition of previous publication

<sup>24</sup>[(5)] Rules made under this section shall be published in the <sup>25</sup>[Official Gazette], and shall thereupon have effect as if enacted in this Act

<sup>1</sup>[59A Publication of information respecting penalties in certain cases—(1) The Central Government shall cause to be published, by notification in the Official Gazette, the names and such other particulars as may be relevant of—

(a) persons on each of whom a penalty amounting to not less than five thousand rupees or such lower amount as may be fixed by the Central Government, by notification in the Official Gazette, has been imposed at any time on or after the 1st day of April, 1960, under clause (c) of sub section (1) of section 28, and

(b) persons who have been convicted as a result of any proceedings initiated on or after the 1st day of April, 1960, under section 52 or under any provision of the Indian Penal Code (XLV of 1860) for any offence connected with any proceedings under this Act

(2) If in the interests of revenue the Central Government considers it necessary so to do, it may also cause to be published, by notification in the Official Gazette, the names and such other particulars as may be relevant of—

(a) persons on each of whom a penalty has been imposed at any time on or after the 1st day of April, 1960, under clause (a) or clause (b) of sub section (1) of section 28, or

(b) persons on each of whom a penalty of an amount not exceeding the amount referred to in clause (a) of sub section (1) has been imposed at any time on or after the 1st day of April, 1960, under clause (c) of sub section (1) of section 28, or

<sup>23</sup> Inserted by s 2 of the Indian I T (Amendment) Act, 1927 (28 of 1927)

<sup>24</sup> Re numbered, *ibid*

<sup>25</sup> Substituted for "Gazette of India" by the Government of India (Adaptation of Indian Laws) Order, 1937

<sup>1</sup> Inserted by s 9 of the Taxation Laws (Amendment) Act, 1960 (28 of 1960), with effect from the 1st April, 1960

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(c) persons who have been convicted as a result of any proceedings initiated on or after the 1st day of April, 1960, under any provision of this Act other than section 52

(3) No publication under this section shall be made—

(i) in the case of an assessee mentioned in clause (a) of sub section (1) or in clause (a) or clause (b) of sub section (2) who has presented an appeal under section 30 against the order of penalty, until the appeal is disposed of by the Appellate Assistant Commissioner,

(ii) in the case of an assessee mentioned in clause (b) of sub section (1) or clause (c) of sub section (2), until the time for appealing has expired without an appeal having been presented, or an appeal if presented has been disposed of

(4) Notwithstanding anything contained in this section, the Central Government may refrain from publishing the name of any person if it is satisfied that in the interests of revenue it is necessary so to do, and where the Central Government refrains from publishing the name of any person, the reason for not publishing the name shall be recorded in writing

(5) Every notification issued under this section shall be laid before Parliament as soon as may be after it is made

(6) The provisions of this section shall have effect notwithstanding anything to the contrary contained in section 54

*Explanation*—In the case of a firm, company or other association of persons, the names of the partners of the firm, directors, managing agents, secretaries and treasurers, or managers of the company, or the members of the association, as the case may be, may also be published if, in the opinion of the Central Government, the circumstances of the case justify it

(Rr 50,  
51)

**59B Disclosure of information respecting tax payable**—Where a person makes an application to the Commissioner in the prescribed form and after payment of the prescribed fee for information as to the amount of tax determined as payable by any assessee in respect of any assessment made on or after the 1st day of April, 1960, the Commissioner may, notwithstanding anything contained in section 54, if he is satisfied that there are no circumstances justifying its refusal, furnish or cause to be furnished the information asked for ]

**60 Power to make exemption, etc**—<sup>2</sup>[(1)] The <sup>3</sup>[Central Government] may, by notification in the <sup>4</sup>[Official Gazette], make an exemption, reduction in rate or other modification, in respect of income tax in favour of any class of income, or in regard to the whole or any part of the income of any class of persons

<sup>5</sup>[(2) Where, by reason of any portion of an assessee's salary being paid in arrears or in advance, <sup>6</sup>[or by reason of his having received in any one financial year salary for more than twelve months] <sup>7</sup>[or a payment which is under the provisions of sub section (1) of section 7 a profit in lieu

<sup>2</sup> The original s 60 was re-numbered sub sec (1) by s 10 of the Indian I T (Second Amendment) Act, 1930 (22 of 1930)

<sup>3</sup> Substituted for "Governor General in Council" by the Government of India (Adaptation of Indian Laws) Order, 1937

<sup>4</sup> Substituted for "Gazette of India" by the Government of India (Adaptation of Indian Laws) Order, 1937

<sup>5</sup> Inserted by s 10 of the Indian I T (Second Amendment) Act, 1930 (22 of 1930)

<sup>6</sup> Inserted by s 27 of the Indian I T (Second Amendment) Act, 1933 (18 of 1933)

<sup>7</sup> Inserted by s 78 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

of salary], his income is assessed at a rate higher than that at which it would otherwise have been assessed, the <sup>2</sup>[Central Government] may grant <sup>3</sup>[the appropriate relief] ] Div 1  
Ss 60-61

<sup>9</sup>[(3) After the commencement of the Indian Income-tax (Amendment) Act, 1939 (VII of 1939), the power conferred by sub section (1) shall not be exercisable except for the purpose of rescinding an exemption, reduction or modification already made ]

<sup>10</sup>[60A. Power to make exemption, etc., in relation to <sup>11</sup>[merged territories] <sup>12</sup>[or to the territories which immediately before the 1st November, 1956, were comprised in any Part B State] <sup>13</sup>[or to Chandernagore] —If the Central Government considers it necessary or expedient so to do for avoiding any hardship or anomaly, or removing any difficulty, that may arise as a result of the extension of this Act to the <sup>11</sup>[merged territories] <sup>12</sup>[or to the territories which immediately before the 1st November, 1956, were comprised in any Part B State] <sup>13</sup>[or to Chandernagore], the Central Government may, by general or special order, make an exemption, reduction in rate or other modification in respect of income tax in favour of any class of income, or in regard to the whole or any part of the income of any person or class of persons

Provided that the power conferred by this section shall not be exercisable <sup>14</sup>[in the case of merged territories and <sup>15</sup>[the territories which immediately before the 1st November, 1956, were comprised in Part B States] other than the State of Jammu and Kashmir, after the 31st day of March, 1955, and, in the case of the State of Jammu and Kashmir <sup>16</sup>[and Chandernagore], after the 31st day of March, 1959,] except for the purpose of rescinding an exemption, reduction or modification already made ]

<sup>16</sup>[60B Tax may be levied for period other than previous year or deducted at source or paid in advance, wherever so provided —(1) Where by virtue of any provision of this Act income-tax or super-tax is to be charged in respect of the income of a period other than the previous year, the income-tax or super-tax, as the case may be, shall be charged accordingly

(2) In respect of income chargeable under this Act, income-tax or super-tax shall be deducted at the source or paid in advance, where it is so deductible or payable under any provision of this Act ]

<sup>17</sup>[61 Appearance by authorised representative —(1) Any assessee, who is entitled or required to attend before <sup>18</sup>[the Appellate Tribunal or] any Income tax authority in connection with any proceeding under this Act

<sup>8</sup> Substituted for "such relief as it may think fit" by s 78 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>9</sup> Inserted, *ibid*

<sup>10</sup> Inserted by s 19 of the Taxation Laws (Extension to Merged States and Amendment) Act, 1910 (87 of 1910)

<sup>11</sup> Substituted for "merged States" by the Adaptation of Laws Order 1950

<sup>12</sup> The words "or to any Part B State" were inserted by s 3 of the Finance Act, 1950 (25 of 1950), with effect from the 1st April, 1950, and the present words were substituted for the above words by the Adaptation of Laws (No 3) Order, 1956, with effect from the 1st November, 1956

<sup>13</sup> Inserted by s 18 of the Finance Act, 1955, with effect from the 1st April, 1955

<sup>14</sup> Substituted for "after the 31st day of March, 1955" by s 2 and Schedule of the Taxation Laws (Extension to Jammu and Kashmir) Act, 1954 (41 of 1954)

<sup>15</sup> Substituted for "Part B States" by the Adaptation of Laws (No 3) Order, 1956, with effect from the 1st November, 1956

<sup>16</sup> The section was inserted by s 10 of the Taxation Laws (Amendment) Act, 1960 (28 of 1960), and shall be deemed always to have been in the Act

<sup>17</sup> Substituted by s 79 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>18</sup> Inserted by s 11 of the Indian I T (Amendment) Act, 1940 (40 of 1940)

Div 1  
S 61 otherwise than when required under section 37 to attend personally for examination on oath or affirmation, may attend by a person authorised by him in writing in this behalf, being a relative of or a person regularly employed by the assessee, or a lawyer or accountant or Income tax practitioner, and not being disqualified by or under sub section (3)

(2) In this section,—

- (i) a person regularly employed by the assessee shall include any officer of a Scheduled Bank with which the assessee maintains a current account or has other regular dealings ,
- (ii) "lawyer" means a Barrister-at-Law or Solicitor or any other person entitled to plead in any Court of law in <sup>19</sup>[the taxable territories],
- (R 44) (iii) "accountant" means a registered accountant enrolled in the Register of Accountants maintained by the Central Government under the Auditors Certificate Rules, 1932, or a holder of a restricted certificate under the Restricted Certificate Rules, 1932, or a member of an association of accountants recognised in this behalf by the Central Board of Revenue,
- (iv) "Income tax practitioner" means—
  - (a) any person who, before the 1st day of April, 1938, <sup>20</sup>[in <sup>21</sup>[the taxable territories], or before the 1st day of April, 1949, in any of the <sup>22</sup>[merged territories],] <sup>23</sup>[or before the 1st day of April, 1950, in any Part B State other than the State of Jammu and Kashmir,] <sup>24</sup>[or before the 14th day of May, 1954, in the State of Jammu and Kashmir,] attended before an Income-tax authority on behalf of any assessee otherwise than in the capacity of an employee or relative of that assessee ,
  - (R 45) (b) any person who has passed any accountancy examination recognised in this behalf by the Central Board of Revenue , or
  - (R 46) (c) any person who has acquired such educational qualifications as the Central Board of Revenue may prescribe for this purpose

(3) No person who has been dismissed from Government service after the 1st day of April, 1938, shall be qualified to represent an assessee under sub section (1) , and if any lawyer or registered accountant is found guilty of misconduct in connection with any income tax proceedings by the authority empowered to take disciplinary action against members of the profession to which he belongs, or if any other person is found guilty of such misconduct by the Commissioner of Income-tax, the Commissioner of Income-tax may direct that he shall be thenceforward disqualified to represent an assessee under sub section (1)

<sup>19</sup> Substituted for "British India" by the Adaptation of Laws Order, 1950

<sup>20</sup> Inserted by s 20 of the Taxation Laws (Extension to Merged States and Amendment) Act, 1949 (67 of 1949)

<sup>21</sup> Substituted for "British India" by the Adaptation of Laws Order, 1950

<sup>22</sup> Substituted for "merged States" *ibid*

<sup>23</sup> Inserted by s 3 of the Finance Act, 1950 (25 of 1950), with effect from the 1st April 1950

<sup>24</sup> Inserted by s 2 and Schedule of the Taxation Laws (Extension to Jammu and Kashmir) Act, 1954 (41 of 1954)

Provided that—

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- (a) no such direction shall be made in respect of any person unless he is given a reasonable opportunity of being heard,
- (b) any person against whom such direction is made may, within one month of the making of the direction, appeal to the Central Board of Revenue to have the direction cancelled, and
- (c) no such direction shall take effect until one month from the making thereof or, when an appeal is preferred, until the disposal of the appeal ]

**62 Receipts to be given**—A receipt shall be given for any money paid or recovered under this Act

**63 Service of notices**—(1) A notice or requisition under this Act may be served on the person therein named either by post or, as if it were a summons issued by a Court, under the Code of Civil Procedure, 1908 (V of 1908)

(2) Any such notice or requisition may, in the case of a firm or a Hindu undivided family, be addressed to any member of the firm or <sup>25</sup>[to the] manager, or any adult male member of the family <sup>1</sup>[and, in the case of any other <sup>2</sup>[association of persons], be addressed to the principal officer thereof ]

**64 Place of assessment**—(1) Where an assessee carries on <sup>3</sup>[a business, profession or vocation] at any place, he shall be assessed by the Income-tax Officer of the area in which that place is situate or, where the <sup>3</sup>[business, profession or vocation] is carried on in more places than one, by the Income tax Officer of the area in which <sup>4</sup>[the principal place of his business, profession or vocation] is situate

(2) In all other cases, an assessee shall be assessed by the Income-tax Officer of the area in which he resides

(3) Where any question arises under this section as to the place of assessment, such question shall be determined by the Commissioner, or, where the question is between places in more <sup>5</sup>[States] than one, by the Commissioners concerned, or, if they are not in agreement, by the <sup>6</sup>[Central Board of Revenue]

Provided that, before any such question is determined, the assessee shall have had an opportunity of representing his views

<sup>7</sup>[Provided further that the place of assessment shall not be called in question by an assessee if he has made a return in response to the notice under sub section (1) of section 22 and has stated therein the principal place wherein he carries on his business, profession or vocation, or if he has not made such a return shall not be called in question after the expiry of the time allowed by the notice under sub section (2) of section 22 or under section 34 for the making of a return

<sup>25</sup> Substituted for "on the" by s 2 and Sch I of the Repealing and Amending Act, 1924 (7 of 1924)

<sup>1</sup> Inserted by s 9 of the Indian I T (Amendment) Act, 1924 (11 of 1924)

<sup>2</sup> Substituted for "association of individuals" by s 80 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>3</sup> Substituted for "business" by s 81, *ibid*

<sup>4</sup> Substituted for "his principal place of business", *ibid*

<sup>5</sup> Substituted for "Provinces" by the Adaptation of Laws Order, 1950

<sup>6</sup> Substituted for "Board of Inland Revenue" by s 4 and Schedule of the Central Board of Revenue Act, 1924 (4 of 1924)

<sup>7</sup> Inserted by s 81 of the Indian I T (Amendment) Act, 1939 (7 of 1939)



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Provided further that if the place of assessment is called in question by an assessee the Income tax Officer shall, if not satisfied with the correctness of the claim, refer the matter for determination under this sub section before assessment is made ]

(4) Notwithstanding anything contained in this section, every Income-tax Officer shall have all the powers conferred by or under this Act on an Income-tax Officer in respect of any income, profits or gains accruing or arising or received within the area for which he is appointed

<sup>8</sup>[(5) The provisions of sub section (1) and sub section (2) shall not apply and shall be deemed never at any time to have applied to any assessee—

- (a) on whom an assessment or reassessment for the purposes of this Act has been, is being or is to be made in the course of any case in respect of which a Commissioner of Income-tax appointed without reference to area under sub section (2) of section 5 is exercising the functions of a Commissioner of Income tax, or
- (b) where by <sup>9</sup>[any direction given or] any distribution or allocation of work made by the Commissioner of Income-tax under sub section (5) of section 5, <sup>9</sup>[or in consequence of any transfer made <sup>10</sup>\* \* \* under sub section (7A) of section 5,] a particular Income tax Officer has been charged with the function of assessing that assessee, or
- (c) who or whose income is included in a class of persons or a class of incomes specified in any notification issued under sub section (6) of section 5,

but the assessment of such person, whether the proceedings for such assessment began before or after the 1st day of April, 1939, shall be made by the Income tax Officer for the time being charged with the function of making such assessment by the Central Board of Revenue or by the Commissioner of Income tax to whom he is subordinate, as the case may be ]

**65 Indemnity**—Every person deducting, retaining, or paying any tax in pursuance of this Act in respect of income belonging to another person is hereby indemnified for the deduction, retention or payment thereof

(R. 22A)

**66 Statement of case by Appellate Tribunal to High Court**—<sup>11</sup>[(1) Within sixty days of the date upon which he is served with notice of an order under sub section (4) of section 33 the assessee or the Commissioner may, by application in the prescribed form, accompanied where application is made by the assessee by a fee of one hundred rupees, require the Appellate Tribunal to refer to the High Court any question of law arising out of such order, and the Appellate Tribunal shall within ninety days of the receipt of such application draw up a statement of the case and refer it to the High Court

Provided that, if, in the exercise of its powers under sub-section (2), the Appellate Tribunal refuses to state a case which it has been required by the assessee to state, the assessee may, within thirty days from the date on which he receives notice of the refusal to state the case, withdraw his application and, if he does so, the fee paid shall be refunded

<sup>8</sup> Inserted by s 6 of the I T Law Amendment Act, 1940 (12 of 1940)

<sup>9</sup> Inserted by s 12 of the Indian I T (Amendment) Act, 1940 (40 of 1940)

<sup>10</sup> The words "by him" were omitted by s 21 of the Taxation Laws (Extension to Merged States and Amendment) Act, 1949 (67 of 1949), and shall be deemed never to have been inserted

<sup>11</sup> Sub secs (1) to (5) were substituted by s 92 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

(2) If on any application being made under sub section (1) the Appellate Tribunal refuses to state the case on the ground that no question of law arises, the assessee or the Commissioner, as the case may be, may, within six months from the date on which he is served with notice of the refusal, apply to the High Court, and the High Court may, if it is not satisfied of the correctness of the decision of the Appellate Tribunal, require the Appellate Tribunal to state the case and to refer it, and on receipt of any such requisition the Appellate Tribunal shall state the case and refer it accordingly

(3) If on any application being made under sub section (1) the Appellate Tribunal rejects it on the ground that it is time-barred, the assessee or the Commissioner, as the case may be, may, within two months from the date on which he is served with notice of the rejection, apply to the High Court, and the High Court, if it is not satisfied of the correctness of the Appellate Tribunal's decision, may require the Appellate Tribunal to treat the application as made within the time allowed under sub section (1)

(4) If the High Court is not satisfied that the statements in a case referred under this section are sufficient to enable it to determine the question raised thereby, the Court may refer the case back to the Appellate Tribunal to make such additions thereto or alterations therein as the Court may direct in that behalf

(5) The High Court upon the hearing of any such case shall decide the questions of law raised thereby and shall deliver its judgment thereon containing the grounds on which such decision is founded and shall send a copy of such judgment under the seal of the Court and the signature of the Registrar to the Appellate Tribunal which shall pass such orders as are necessary to dispose of the case conformably to such judgment ]

(6) Where a reference is made to the High Court <sup>12\*</sup> the costs shall be in the discretion of the Court

(7) Notwithstanding that a reference has been made under this section to the High Court, income-tax shall be payable in accordance with the assessment made in the case

Provided that, if the amount of an assessment is reduced as a result of such reference, the amount overpaid shall be refunded with such interest as the Commissioner may allow <sup>13</sup>[unless the High Court, on intimation given by the Commissioner within thirty days of the receipt of the result of such reference that he intends to ask for leave to appeal to <sup>14</sup>[the Supreme Court], makes an order authorising the Commissioner to postpone payment of such refund until the disposal of the appeal to <sup>14</sup>[the Supreme Court] ]

<sup>15</sup>[(7A) Section 5 of the Indian Limitation Act, 1908 (IX of 1908), shall apply to an application to the High Court by an assessee <sup>16</sup>[under sub-section (2) or sub-section (3) ] ]

<sup>17</sup>[(8) For the purposes of this section, " the High Court " means—

<sup>12</sup> " On the application of an assessee " omitted by s 92 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>13</sup> Inserted by s 82, *ibid*

<sup>14</sup> Substituted for " His Majesty in Council " by the Adaptation of Laws Order, 1950

<sup>15</sup> Inserted by s 28 of the Indian I T (Second Amendment) Act, 1933 (18 of 1933)

<sup>16</sup> Substituted for " under sub section (3) or sub section (3A) " by s 92 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>17</sup> Substituted by the Adaptation of Laws (No 3) Order, 1956, with effect from the 1st November, 1956

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- (a) in relation to any State, the High Court for that State ,
- (b) in relation to the Union territories of Delhu and Himachal Pradesh, the High Court of Punjab ,
- (c) in relation to the Union territories of Manipur and Tripura, the High Court of Assam ,
- (d) in relation to the Union territory of the Andaman and Nicobar Islands, the High Court at Calcutta , and
- (e) in relation to the Union territory of the Laccadive, Minicoy and Amundivi Islands, the High Court of Kerala ]

<sup>18</sup>[66A Reference to be heard by Benches of High Courts and appeal to lie in certain cases to <sup>19</sup>[the Supreme Court] —(1) When any case has been referred to the High Court under section 66, it shall be heard by a Bench of not less than two Judges of the High Court, <sup>20</sup>[and shall be decided in accordance with the opinion of such Judges or of the majority (if any) of such Judges

Provided that where there is no such majority, the Judges shall state the point of law upon which they differ, and the case shall then be heard upon that point only by one or more of the other Judges of the High Court, and such point shall be decided according to the opinion of the majority of the Judges who have heard the case, including those who first heard it ]

21 \* \* \* \*

(2) An appeal shall lie to <sup>19</sup>[the Supreme Court] from any judgment of the High Court delivered on a reference made under section 66 in any case which the High Court certifies to be a fit one for appeal to <sup>19</sup>[the Supreme Court]

(3) The provisions of the Code of Civil Procedure, 1908 (V of 1908), relating to appeals to <sup>19</sup>[the Supreme Court] shall, so far as may be, apply in the case of appeals under this section in like manner as they apply in the case of appeals from decrees of a High Court

Provided that nothing in this sub-section shall be deemed to affect the provisions of sub section (5) or sub section (7) of section 66

Provided further that the High Court may, on petition made for the execution of the order of <sup>19</sup>[the Supreme Court] in respect of any costs awarded thereby, transmit the order for execution to any Court subordinate to the High Court

(4) Where the judgment of the High Court is varied or reversed in appeal under this section, effect shall be given to the order of <sup>19</sup>[the Supreme Court] in the manner provided in sub sections (5) and (7) of section 66 in the case of a judgment of the High Court

(5) <sup>22\*</sup> \* \* \* \*]

<sup>18</sup> Inserted by s 8 of the Indian I T (Amendment) Act, 1926 (24 of 1926)

<sup>19</sup> Substituted for "His Majesty in Council" by the Adaptation of Laws Order, 1950

<sup>20</sup> Substituted for "and in respect of such case the provisions of section 98 of the Code of Civil Procedure, 1908 (V of 1908), shall, so far as may be, apply notwithstanding anything contained in the Letters Patent of any High Court established by Letters Patent or in any other law for the time being in force" by s 29 of the Indian I T (Amendment) Act, 1953 (25 of 1953), with effect from the 1st Apr 1, 1952

<sup>21</sup> The proviso was omitted by the India (Adaptation of Income tax, Profits Tax and Revenue Recovery Acts) Order, 1947 (G G O 31)

<sup>22</sup> Omitted by the Adaptation of Laws Order, 1950

**67 Bar of suits in Civil Court** —No suit shall be brought in any Civil Court **Div 1** to set aside or modify any assessment made under this Act, and no prosecution, suit or other proceeding shall lie against any **Ss** <sup>23</sup>[officer of the Government] **67-68** for anything in good faith done or intended to be done under this Act

<sup>24</sup>**[67A Computation of periods of limitation]**—In computing the period of limitation prescribed for an appeal under this Act or for an application under section 66, the day on which the order complained of was made, and the time requisite for obtaining a copy of such order, shall be excluded ]

<sup>25</sup>**[67B Act to have effect pending legislative provision for charge of income-tax]**—If on the 1st day of April in any year provision has not yet been made by <sup>1</sup>[a Central Act] for the charging of income-tax for that year, this Act shall nevertheless have effect until such provision is so made as if the provision in force in the preceding year or the provision proposed in the Bill then before <sup>2</sup>[Parliament], whichever is more favourable to the assessee, were actually in force ]

**68 Repeals** —*Repealed by the Repealing Act, 1927 (XII of 1927)*

<sup>23</sup> Substituted for "officer of the Crown" by the Adaptation of Laws Order, 1950 "Officer of the Crown" had been substituted for "Government Officer" by the Government of India (Adaptation of Indian Laws) Order, 1937

<sup>24</sup> Inserted by s 12 of the Indian I T (Second Amendment) Act, 1930 (22 of 1930)

<sup>25</sup> Inserted by s 7 of the I T Law Amendment Act, 1940 (12 of 1940)

<sup>1</sup> Substituted for "an Act of the Indian Legislature" by the Adaptation of Laws Order, 1950

<sup>2</sup> Substituted for "the Legislature", *ibid*

## <sup>2</sup>[THE SCHEDULE

[See section 10(7)]

### RULES FOR THE COMPUTATION OF THE PROFITS AND GAINS OF INSURANCE BUSINESS

1 In the case of any person who carries on, or at any time in the preceding year carried on, life insurance business, the profits and gains of such person from that business shall be computed separately from his income, profits or gains from any other business

2 The profits and gains of life insurance business shall be taken to be either—

(a) the gross external incomings of the preceding year from that business less the management expenses of that year, or

(b) the annual average of the surplus <sup>4</sup>[arrived at by adjusting the surplus or deficit] disclosed by the actuarial valuation made <sup>5</sup>[in accordance with the Insurance Act, 1938 (IV of 1938), in respect of] the last inter-valuation period ending before the year for which the assessment is to be made, <sup>6</sup>\* \* \* so as to exclude from it any surplus or deficit included therein which was made in any earlier inter-valuation period and any expenditure other than expenditure which may under the provisions of section 10 of this Act be allowed for in computing the profits and gains of a business,

whichever is the greater

— Provided that the amount to be allowed as management expenses shall not exceed—

(a)  $7\frac{1}{2}$  per cent of the premiums received during the preceding year in respect of single premium life insurance policies, *plus*

(b) in respect of the first year's premiums received in respect of other life insurance policies for which the number of annual premiums <sup>7</sup>[payable] is less than twelve, or for which the number of years during which premiums are payable is less than twelve, for each such premium or each such year  $7\frac{1}{2}$  per cent of such first year's premiums received during the preceding year, *plus*

<sup>8</sup>[(c) 90 per cent of the first year's premiums received during the preceding year in respect of all other life insurance policies, *plus*

<sup>2</sup> The original Schedule was repealed by the Repealing Act, 1927 (12 of 1927), and this Schedule was added by s 84 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>4</sup> Inserted by s 8 of the I T Law Amendment Act, 1940 (12 of 1940)

<sup>5</sup> Substituted for the word "for" by s 30 of the Indian I T (Amendment) Act, 1953 (25 of 1953) This amendment shall be deemed to be operative in relation to any assessment subsequent to the assessment for the year ending on the 31st March, 1951, whether such assessment has or has not been made before the commencement of this Act, and where any such assessment has been made before such commencement it shall be lawful for the Income tax Officer to revise it, wherever necessary, to give effect to this amendment

<sup>6</sup> "After adjusting such surplus" omitted by s 8 of the I T Law Amendment Act 1940 (12 of 1940)

<sup>7</sup> Substituted for "received" by s 14 of the Indian I T (Amendment) Act, 1944 (11 of 1944)

<sup>8</sup> Cl (c) and the original cl (d) were substituted by s 14 of the Indian I T (Amendment) Act, 1944 (11 of 1944)

<sup>9</sup>[(d) in respect of all renewal premiums received during the preceding year an amount calculated at such percentage thereof as is permissible under sub section (2) of section 40B of the Insurance Act, 1938 (IV of 1938), as reduced by any expenditure which is not admissible under section 10 of this Act ]]

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3 In computing the surplus for the purpose of rule 2,—

(a) <sup>9</sup>[four-fifths] of the amounts paid to or reserved for or expended on behalf of policy-holders shall be allowed as a deduction

Provided that in the first such computation made under this rule of any such surplus no account shall be taken of any such amounts to the extent to which they are paid out of or in respect of any surplus brought forward from a previous inter-valuation period

Provided further that if any amount so reserved for policy-holders ceases to be so reserved, and is not paid to or expended on behalf of policy-holders <sup>9</sup>[that proportion of such amount (one-half or four-fifths, as the case may be)], if it has been previously allowed as a deduction, shall be treated as part of the surplus for the period in which the said amount ceased to be so reserved,

(b) any amount either written off or reserved in the accounts or through the actuarial valuation balance sheet to meet depreciation of or loss on the realisation of securities or other assets shall be allowed as a deduction, and any sums taken credit for in the accounts or actuarial valuation balance sheet on account of appreciation of or gains on the realisation of the securities or other assets shall be included in the surplus

Provided that if upon investigation it appears to the Income-tax Officer after consultation with the <sup>10</sup>[Controller of Insurance] that having due regard to the necessity for making reasonable provision for bonuses to participating policy-holders and for contingencies, the rate of interest or other factor employed in determining the liability in respect of outstanding policies is materially inconsistent with the valuation of the securities and other assets so as artificially to reduce the surplus, such adjustment shall be made to the allowance for depreciation of, or to the amount to be included in the surplus in respect of appreciation of, such securities and other assets, as shall increase the surplus for the purposes of these rules to a figure which is fair and just,

<sup>11</sup>[(c) interest received in respect of any securities of the Central Government which have been issued or declared to be income-tax free shall not be excluded but the whole amount of such

<sup>9</sup> Cl (d) was substituted, the words "four fifths" were substituted for "one half" and the words "that proportion of such amount (one half or four fifths, as the case may be)" were substituted for "one half of such amount", by s 30 of the Indian I T (Amendment) Act, 1953 (25 of 1953). These amendments shall be deemed to be operative in relation to any assessment subsequent to the assessment for the year ending on the 31st March, 1951, whether such assessment has or has not been made before the commencement of this Act, and where any such assessment has been made before such commencement it shall be lawful for the Income tax Officer to revise it, wherever necessary to give effect to these amendments

<sup>10</sup> Substituted for "Superintendent of Insurance", *ibid*

<sup>11</sup> Substituted by s 14 of the Indian I T (Amendment) Act, 1941 (11 of 1944)

1 interest received during the inter-valuation period shall be exempt from income tax under the second proviso to section 8 though not from super-tax ]

4 Where for any year an assessment is made in accordance with the annual average of a surplus disclosed by a valuation for an inter-valuation period exceeding twelve months, then, in computing the tax payable for that year, credit shall not be given in accordance with sub section (5) of section 18 for the tax paid in the preceding year, but credit shall be given for the annual average of the income tax paid by deduction at source from interest on securities or otherwise during such period

5 For the purposes of these rules—

- (i) "preceding year" means that year for which annual accounts are required to be prepared under the Insurance Act, 1938, immediately preceding the year for which the assessment is to be made or until the commencement of the Insurance Act, 1938, the previous year as defined in section 2 of this Act,
- (ii) "gross external incomes" means the full amount of incomes from interest, dividends, fines and fees and all other incomes from whatever source derived (except premiums received from policy-holders and interest and dividends on any annuity fund) and includes also profits from reversions and on the sale or the granting of annuities, but excludes profits on the realisation of securities <sup>12</sup>[or other assets]

Provided that incomes, including the annual value of the property occupied by the assessee, which but for the provisions of sub-section (7) of section 10 would have been assessable under section 9 shall be computed upon the basis laid down in the last named section, and that there shall be allowed from such gross incomes such deductions as are permissible under that section,

- (iii) "management expenses" means the full amount of expenses (including commissions) incurred exclusively in the management of the business of life insurance, and in the case of a company carrying on other classes of business as well as the business of life insurance in addition thereto a fair proportion of the expenses incurred in the general management of the whole business. Bonuses or other sums paid to or reserved on behalf of policy-holders, depreciation of, and losses on the realisation of, securities <sup>12</sup>[or other assets] and any expenditure other than expenditure which may under the provisions of section 10 of this Act be allowed for in computing the profits and gains of a business are not management expenses for the purposes of these rules,
- (iv) "life insurance business" means life insurance business as defined in clause (11) of section 2 of the Insurance Act, 1938,
- (v) "securities" includes stocks and shares

6 The profits and gains of any business of insurance other than life insurance shall be taken to be the balance of the profits disclosed by the annual accounts, copies of which are required under the Insurance Act, 1938, to be furnished to the <sup>13</sup>[Controller of Insurance] after adjusting such

<sup>12</sup> Inserted by s 14 of the Indian I T (Amendment) Act, 1944 (11 of 1944)

<sup>13</sup> Substituted for "Superintendent of Insurance" by s 30 of the Indian I T (Amendment) Act, 1953 (25 of 1953)

balance so as to exclude from it any expenditure other than expenditure which may under the provisions of section 10 of this Act be allowed for in computing the profits and gains of a business Profits and losses on the realisation of investments and depreciation and appreciation of the value of investments shall be dealt with as provided in rule 3 for the business of life insurance Div 1  
Rr  
6-9

7 The profits and gains of companies carrying on dividing societies or assessment business shall be taken to be 15 per cent of the premium income of the previous year, or in the case of non-resident companies 15 per cent of the <sup>14</sup>[premium income of the previous year derived from the taxable territories]

<sup>15</sup>[8 The profits and gains of the branches in the taxable territories of a person not resident in the taxable territories and carrying on any business of insurance, may, in the absence of more reliable data be deemed to be that proportion of the world income of such person which corresponds to the proportion which his premium income derived from the taxable territories bears to his total premium income]

For the purposes of this rule, the world income in relation to life insurance business of a person not resident in the taxable territories shall be computed in the manner laid down in these rules for the computation of the profits and gains of life insurance business carried on in the taxable territories ]

9 These rules apply to the assessment of the profits of any business of insurance carried on <sup>16</sup>[by a mutual insurance association] <sup>17</sup>[or by a co operative society] ]

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<sup>14</sup> Substituted for "British Indian premium income of the previous year" by the Adaptation of Laws Order, 1950

<sup>15</sup> Substituted by s 30 of the Indian I T (Amendment) Act, 1953 (25 of 1953) The amendment shall be deemed to be operative in relation to any assessment subsequent to the assessment for the year ending on the 31st March, 1951, whether such assessment has or has not been made before the commencement of this Act, and where any such assessment has been made before such commencement it shall be lawful for the Income tax Officer to revise it, wherever necessary, to give effect to this amendment

<sup>16</sup> Substituted for "by a mutual insurance company" by s 13 of the Indian I T (Amendment) Act, 1940 (40 of 1940)

<sup>17</sup> Inserted by s 19 of the Finance Act, 1955, with effect from the 1st April, 1955



DIVISION 2

**THE INCOME-TAX ACT, 1961**

# THE INCOME-TAX ACT, 1961

## ACT No. XLIII OF 1961

[13th September, 1961]

*An Act to consolidate and amend the law relating to income-tax and super-tax*

Be it enacted by Parliament in the Twelfth Year of the Republic of India as follows —

### CHAPTER I

#### PRELIMINARY

**1 Short title, extent and commencement** —(1) This Act may be called the Income-tax Act, 1961

(2) It extends to the whole of India

(3) Save as otherwise provided in this Act, it shall come into force on the 1st day of April, 1962

**2 Definitions** —In this Act, unless the context otherwise requires,—

(1) “ agricultural income ” means—

(Rr. 7,  
8)

(a) any rent or revenue derived from land which is used for agricultural purposes and is either assessed to land revenue in India or is subject to a local rate assessed and collected by officers of the Government as such ,

(b) any income derived from such land by—

(i) agriculture , or

(ii) the performance by a cultivator or receiver of rent in-kind of any process ordinarily employed by a cultivator or receiver of rent-in-kind to render the produce raised or received by him fit to be taken to market , or

(iii) the sale by a cultivator or receiver of rent-in kind of the produce raised or received by him, in respect of which no process has been performed other than a process of the nature described in paragraph (ii) of this sub-clause ,

(c) any income derived from any building owned and occupied by the receiver of the rent or revenue of any such land, or occupied by the cultivator or the receiver of rent-in-kind, of any land with respect to which, or the produce of which, any process mentioned in paragraphs (ii) and (iii) of sub-clause (b) is carried on

Provided that the building is on or in the immediate vicinity of the land, and is a building which the receiver of the rent or revenue or the cultivator, or the receiver of rent-in-kind, by reason of his connection with the land, requires as a dwelling house, or as a store-house, or other out-building ,

- (2) "annual value", in relation to any property, means its annual value as determined under section 23,
- (3) "Appellate Assistant Commissioner" means a person appointed to be an Appellate Assistant Commissioner of Income-tax under sub section (1) of section 117,
- (4) "Appellate Tribunal" means the Appellate Tribunal constituted under section 252,
- (5) "approved gratuity fund" means a gratuity fund which has been and continues to be approved by the Commissioner in accordance with the rules contained in Part C of the Fourth Schedule,
- (6) "approved superannuation fund" means a superannuation fund or any part of a superannuation fund which has been and continues to be approved by the Commissioner in accordance with the rules contained in Part B of the Fourth Schedule,
- (7) "assessee" means a person by whom income-tax or super-tax or any other sum of money is payable under this Act, and includes—
  - (a) every person in respect of whom any proceeding under this Act has been taken for the assessment of his income or of the income of any other person in respect of which he is assessable, or of the loss sustained by him or by such other person, or of the amount of refund due to him or to such other person,
  - (b) every person who is deemed to be an assessee under any provision of this Act,
  - (c) every person who is deemed to be an assessee in default under any provision of this Act,
- (8) "assessment" includes reassessment,
- (9) "assessment year" means the period of twelve months commencing on the 1st day of April every year,
- (10) "average rate of income tax" means the rate arrived at by dividing the amount of income-tax calculated on the total income, by such total income,
- (11) "average rate of super-tax" means the rate arrived at by dividing the amount of super-tax calculated on the total income, by such total income,
- (12) "Board" means the Central Board of Revenue constituted under the Central Board of Revenue Act, 1924 (IV of 1924),
- (13) "business" includes any trade, commerce or manufacture or any adventure or concern in the nature of trade, commerce or manufacture,
- (14) "capital asset" means property of any kind held by an assessee, whether or not connected with his business or profession, but does not include—
  - (i) any stock-in-trade, consumable stores or raw materials held for the purposes of his business or profession,
  - (ii) personal effects, that is to say, moveable property (including wearing apparel, jewellery and furniture) held for personal

use by the assessee or any member of his family dependent on him , Div 2  
S 2

(iii) agricultural land in India ,

\*[(iv) 6½ per cent Gold Bonds, 1977, issued by the Central Government,]

(15) "charitable purpose" includes relief of the poor, education, medical relief, and the advancement of any other object of general public utility not involving the carrying on of any activity for profit ,

(16) "Commissioner" means a person appointed to be a Commissioner of Income tax under sub section (1) of section 117 ,

(17) "company" means—

(i) any Indian company, or

(ii) any association, whether incorporated or not and whether Indian or non-Indian, which is or was assessable or was assessed under the Indian Income-tax Act, 1922 (XI of 1922), as a company for the assessment year commencing on the 1st day of April, 1947, or which is declared by general or special order of the Board to be a company for the purposes of this Act ,

(18) "company in which the public are substantially interested"—a company is said to be a company in which the public are substantially interested—

(a) if it is a company owned by the Government or in which not less than forty per cent of the shares are held by the Government , or

(b) if it is not a private company as defined in the Companies Act, 1956 (I of 1956), and

(i) its shares (not being shares entitled to a fixed rate of dividend whether with or without a further right to participate in profits) carrying not less than fifty per cent of the voting power have been allotted unconditionally to, or acquired unconditionally by, and were throughout the relevant previous year beneficially held by, the Government or a corporation established by a Central, State or Provincial Act or the public (not being a director, or a company to which this clause does not apply) ,

(ii) the said shares were at any time during the relevant previous year the subject of dealing in any recognised stock exchange in India or were freely transferable by the holder to other members of the public , and

(iii) the affairs of the company, or the shares carrying more than fifty per cent of its total voting power were at no time during the relevant previous year controlled or held by five or less persons ,

*Explanation 1*—In computing the number of five or less persons aforesaid,—

(i) the Government or any corporation established by a Central, State or Provincial Act or company to which this clause applies shall not be taken into account, and

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\* Inserted by s 2 of the Taxation Laws (Amendment ) Act, 1962 (54 of 1962)

- (ii) persons who are relatives of one another, and persons who are nominees of any other person together with that other person, shall be treated as a single person ,

*Explanation 2*—In its application to any such company as is referred to in sub-clause (2) of clause (iii) of section 109, sub clause (b) shall have effect as if for the words “ not less than fifty per cent ” and “ more than fifty per cent ” the words “ not less than forty per cent ” and “ more than sixty per cent ” had been substituted ,

- (19) “ co-operative society ” means a co-operative society registered under the Co operative Societies Act, 1912 (II of 1912), or under any other law for the time being in force in any State for the registration of co-operative societies ,
- (20) “ director ”, “ manager ” and “ managing agent ”, in relation to a company, have the meanings respectively assigned to them in the Companies Act, 1956 (I of 1956),
- (21) “ Director of Inspection ” means a person appointed to be a Director of Inspection under sub-section (1) of section 117, and includes a person appointed to be an Additional Director of Inspection, a Deputy Director of Inspection or an Assistant Director of Inspection ,
- (22) “ dividend ” includes—
- (a) any distribution by a company of accumulated profits, whether capitalised or not, if such distribution entails the release by the company to its shareholders of all or any part of the assets of the company ,
  - (b) any distribution to its shareholders by a company of debentures, debenture stock, or deposit certificates in any form, whether with or without interest, and any distribution to its preference shareholders of shares by way of bonus, to the extent to which the company possesses accumulated profits, whether capitalised or not ,
  - (c) any distribution made to the shareholders of a company on its liquidation, to the extent to which the distribution is attributable to the accumulated profits of the company immediately before its liquidation, whether capitalised or not ,
  - (d) any distribution to its shareholders by a company on the reduction of its capital, to the extent to which the company possesses accumulated profits which arose after the end of the previous year ending next before the 1st day of April, 1933, whether such accumulated profits have been capitalised or not ,
  - (e) any payment by a company, not being a company in which the public are substantially interested, of any sum (whether as representing a part of the assets of the company or otherwise) by way of advance or loan to a shareholder, being a person who has a substantial interest in the company, or any payment by any such company on behalf, or for the individual benefit of any such shareholder, to the extent to which the company in either case possesses accumulated profits

but "dividend" does not include—

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- (i) a distribution made in accordance with sub clause (c) or sub-clause (d) in respect of any share issued for full cash consideration, where the holder of the share is not entitled in the event of liquidation to participate in the surplus assets ,
- (ii) any advance or loan made to a shareholder by a company in the ordinary course of its business, where the lending of money is a substantial part of the business of the company ,
- (iii) any dividend paid by a company which is set off by the company against the whole or any part of any sum previously paid by it and treated as a dividend within the meaning of sub-clause (e), to the extent to which it is so set off ,

*Explanation 1*—The expression "accumulated profits", wherever it occurs in this clause, shall not include capital gains arising before the 1st day of April, 1946, or after the 31st day of March, 1948, and before the 1st day of April, 1956 ,

*Explanation 2*—The expression "accumulated profits" in sub-clauses (a), (b), (d) and (e), shall include all profits of the company up to the date of distribution or payment referred to in those sub-clauses, and in sub clause (c) shall include all profits of the company up to the date of liquidation ,

- (23) "firm", "partner" and "partnership" have the meanings respectively assigned to them in the Indian Partnership Act, 1932 (IX of 1932), but the expression "partner" shall also include any person who, being a minor, has been admitted to the benefits of partnership ,
- (24) "income" includes—
  - (i) profits and gains ,
  - (ii) dividend ,
  - (iii) the value of any perquisite or profit in lieu of salary taxable under clauses (2) and (3) of section 17 ,
  - (iv) the value of any benefit or perquisite, whether convertible into money or not, obtained from a company either by a director or by a person who has a substantial interest in the company, or by a relative of the director or such person, and any sum paid by any such company in respect of any obligation which, but for such payment, would have been payable by the director or other person aforesaid ,
  - (v) any sum chargeable to income-tax under clauses (ii) and (iii) of section 28 or section 41 or section 59 ,
  - (vi) any capital gains chargeable under section 45 ,
  - (vii) the profits and gains of any business of insurance carried on by a mutual insurance company or by a co-operative society, computed in accordance with section 44 or any surplus taken to be such profits and gains by virtue of provisions contained in the First Schedule ,
- (25) "Income-tax Officer" means a person appointed to be an Income-tax Officer under section 117 ,

\*[(25A) "India" shall be deemed to include the Union territories of Dadra and Nagar Haveli, Goa, Daman and Diu, and Pondicherry,—

- (a) as respects any period, for the purposes of section 6, and
- (b) as respects any period included in the previous year, for the purposes of making any assessment for the assessment year commencing on the 1st day of April, 1963, or for any subsequent year,]

(26) "Indian company" means a company formed and registered under the Companies Act, 1956 (I of 1956), and includes—

- (i) a company formed and registered under any law relating to companies formerly in force in any part of India (other than the State of Jammu and Kashmir \*[and the Union territories specified in sub-clause (iii) of this clause]),
- (ii) in the case of the State of Jammu and Kashmir, a company formed and registered under any law for the time being in force in that State,
- \*[(iii) in the case of any of the Union territories of Dadra and Nagar Haveli, Goa, Daman and Diu, and Pondicherry, a company formed and registered under any law for the time being in force in that Union territory ]

Provided that the registered office of the company in all cases is in India,

(27) "Inspecting Assistant Commissioner" means a person appointed to be an Inspecting Assistant Commissioner of Income tax under sub section (1) of section 117,

(28) "Inspector of Income-tax" means a person appointed to be an Inspector of Income-tax under sub section (2) of section 117,

(29) "legal representative" has the meaning assigned to it in clause (11) of section 2 of the Code of Civil Procedure, 1908 (V of 1908),

(30) "non-resident" means a person who is not a "resident", and for the purposes of sections 92, 93, 113 and 168, includes a person who is not ordinarily resident within the meaning of sub section (6) of section 6,

(31) "person" includes—

- (i) an individual,
- (ii) a Hindu undivided family,
- (iii) a company,
- (iv) a firm,
- (v) an association of persons or a body of individuals, whether incorporated or not,
- (vi) a local authority, and
- (vii) every artificial juridical person, not falling within any of the preceding sub clauses,

(32) "person who has a substantial interest in the company", in relation to a company, means a person who is the beneficial

\*Inserted by s 3 and Schedule of the Taxation Laws (Extension to Union Territories) Regulation, 1963 (3 of 1963)

owner of shares, not being shares entitled to a fixed rate of Div 2 dividend whether with or without a right to participate in profits, S 2 carrying not less than twenty per cent of the voting power ,

(33) "prescribed" means prescribed by rules made under this Act ,

(34) "previous year" means the previous year as defined in section 3 ,

(35) "principal officer", used with reference to a local authority or a company or any other public body or any association of persons or any body of individuals, means—

(a) the secretary, treasurer, manager or agent of the authority, company, association or body, or

(b) any person connected with the management or administration of the local authority, company, association or body upon whom the Income-tax Officer has served a notice of his intention of treating him as the principal officer thereof ,

(36) "profession" includes vocation ,

(37) "public servant" has the same meaning as in section 21 of the Indian Penal Code (XLV of 1860) ,

(38) "recognised provident fund" means a provident fund which has been and continues to be recognised by the Commissioner in accordance with the rules contained in Part A of the Fourth Schedule, and includes a provident fund established under a scheme framed under the Employees' Provident Funds Act, 1952 (XIX of 1952) ,

(39) "registered firm" means a firm registered under the provisions of clause (a) of sub section (1) of section 185 or under that provision read with sub section (7) of section 184 ,

(40) "regular assessment" means the assessment made under section 143 or section 144 ,

(41) "relative", in relation to an individual, means the husband, wife, brother or sister or any lineal ascendant or descendant of that individual ,

(42) "resident" means a person who is resident in India within the meaning of section 6 ,

\*[(42A) "short-term capital asset" means a capital asset held by an assessee for not more than twelve months immediately preceding the date of its transfer ,

*Explanation —(i)* In determining the period for which any capital asset is held by the assessee—

(a) in the case of a share held in a company in liquidation, there shall be excluded the period subsequent to the date on which the company goes into liquidation ,

(b) in the case of a capital asset which becomes the property of the assessee in the circumstances mentioned in clauses (i) to (iv) of section 49, there shall be included the period for which the asset was held by the previous owner referred to in the said section ,

(ii) In respect of capital assets other than those mentioned in clause (i), the period for which any capital asset is held by the

\* Inserted by s 3 of the Finance (No 2) Act, 1962, with effect from the 1st April, 1962



assessee shall be determined subject to any rules which the Board may make in this behalf, ]

(43) "tax" means income-tax and super-tax chargeable under the provisions of this Act,

\*[(14) "Tax Recovery Officer" means—

(i) a Collector or an additional Collector,

(ii) any such officer empowered to effect recovery of arrears of land revenue or other public demand under any law relating to land revenue or other public demand for the time being in force in the State as may be authorised by the State Government, by general or special notification in the Official Gazette, to exercise the powers of a Tax Recovery Officer,

(iii) any Gazetted Officer of the Central or a State Government who may be authorised by the Central Government, by general or special notification in the Official Gazette, to exercise the powers of a Tax Recovery Officer, ]

(15) "total income" means the total amount of income referred to in section 5, computed in the manner laid down in this Act,

(46) "total world income" includes all income wherever accruing or arising, except incomes which are not included in the total income under any of the provisions of Chapter III and except any capital gains which are not includible in the total income of an assessee,

(17) "transfer", in relation to a capital asset, includes the sale, exchange or relinquishment of the asset or the extinguishment of any rights therein or the compulsory acquisition thereof under any law,

(18) "unregistered firm" means a firm which is not a registered firm

3 "Previous year" defined—(1) For the purposes of this Act, "previous year" means—

(a) the financial year immediately preceding the assessment year, or

(b) if the accounts of the assessee have been made up to a date within the said financial year, then, at the option of the assessee, the twelve months ending on such date, or

(c) in the case of any person or business or class of persons or business not falling within clause (a) or clause (b) such period as may be determined by the Board or by any authority authorised by the Board in this behalf, or

(d) in the case of a business or profession newly set up in the said financial year, the period beginning with the date of the setting up of the business or profession and—

(i) ending with the said financial year, or

(ii) if the accounts of the assessee have been made up to a date within the said financial year, then, at the option of the assessee, the twelve months ending on that date, or

(iii) ending with the period, if any, determined under clause (c)

and the period so determined under clause (c) shall be the previous year for the purposes of this Act.

- (e) in the case of a business or profession newly set up in the twelve months immediately preceding the said financial year— Div 2  
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- (i) if the accounts of the assessee have been made up to a date within the said financial year and the period from the date of the setting up of the business or profession to such date does not exceed twelve months, then, at the option of the assessee, such period, or
- (ii) if any period has been determined under clause (c), then the period beginning with the date of the setting up of the business or profession and ending with that period, as the case may be, or
- (f) where the assessee is a partner in a firm and the firm has been assessed as such, then, in respect of the assessee's share in the income of the firm, the period determined as the previous year for the assessment of the income of the firm, or
- (g) in respect of profits and gains from life insurance business, the year immediately preceding the assessment year for which annual accounts are required to be prepared under the Insurance Act, 1938 (IV of 1938), or under that Act read with section 43 of the Life Insurance Corporation Act, 1956 (XXXI of 1956)

(2) Where an assessee has newly set up a business or profession in the said financial year and his accounts are made up to a date in the assessment year in respect of a period not exceeding twelve months from the date of such setting up, then, notwithstanding anything contained in sub-clause (ii) of clause (d) of sub-section (1), the assessee shall, in respect of that business or profession, at his option, be deemed to have no previous year for the said assessment year under that clause and such option shall, in relation to the immediately succeeding assessment year, have effect as an option exercised under sub clause (i) of clause (e) of sub-section (1)

(3) Subject to the other provisions of this section, an assessee may have different previous years in respect of separate sources of his income

(4) Where in respect of a particular source of income or in respect of a business or profession newly set up, an assessee has once exercised the option under clause (b) or sub-clause (ii) of clause (d) or sub clause (i) of clause (e) of sub section (1) or has once been assessed, then, he shall not, in respect of that source, or, as the case may be, business or profession, be entitled to vary the meaning of the expression "previous year" as then applicable to him, except with the consent of the Income-tax Officer and upon such conditions as the Income-tax Officer may think fit to impose

## CHAPTER II

### BASIS OF CHARGE

4 Charge of income-tax —(1) Where any Central Act enacts that income-tax shall be charged for any assessment year at any rate or rates, income-tax at that rate or those rates shall be charged for that year in accordance with, and subject to the provisions of, this Act in respect of the total income of the previous year or previous years, as the case may be, of every person

Provided that where by virtue of any provision of this Act income-tax is to be charged in respect of the income of a period other than the previous year, income-tax shall be charged accordingly

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(2) In respect of income chargeable under sub section (1), income tax shall be deducted at the source or paid in advance, where it is so deductible or payable under any provision of this Act

**5 Scope of total income**—(1) Subject to the provisions of this Act, the total income of any previous year of a person who is a resident includes all income from whatever source derived which—

- (a) is received or is deemed to be received in India in such year by or on behalf of such person, or
- (b) accrues or arises or is deemed to accrue or arise to him in India during such year, or
- (c) accrues or arises to him outside India during such year

Provided that, in the case of a person not ordinarily resident in India within the meaning of sub section (6) of section 6, the income which accrues or arises to him outside India shall not be so included unless it is derived from a business controlled in or a profession set up in India

(2) Subject to the provisions of this Act, the total income of any previous year of a person who is a non resident includes all income from whatever source derived which—

- (a) is received or is deemed to be received in India in such year by or on behalf of such person, or
- (b) accrues or arises or is deemed to accrue or arise to him in India during such year

*Explanation 1*—Income accruing or arising outside India shall not be deemed to be received in India within the meaning of this section by reason only of the fact that it is taken into account in a balance sheet prepared in India

*Explanation 2*—For the removal of doubts, it is hereby declared that income which has been included in the total income of a person on the basis that it has accrued or arisen or is deemed to have accrued or arisen to him shall not again be so included on the basis that it is received or deemed to be received by him in India

**6 Residence in India**—For the purposes of this Act—

- (1) an individual is said to be resident in India in any previous year, if he—
  - (a) is in India in that year for a period or periods amounting in all to one hundred and eighty two days or more, or
  - (b) maintains or causes to be maintained for him a dwelling place in India for a period or periods amounting in all to one hundred and eighty two days or more in that year and has been in India for thirty days or more in that year, or
  - (c) having within the four years preceding that year been in India for a period or periods amounting in all to three hundred and sixty-five days or more, is in India for a period or periods amounting in all to sixty days or more in that year
- (2) A Hindu undivided family, firm or other association of persons is said to be resident in India in any previous year in every case except where during that year the control and management of its affairs is situated wholly outside India

- (3) A company is said to be resident in India in any previous year, if— Div 2  
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- (i) it is an Indian company, or
  - (ii) during that year, the control and management of its affairs is situated wholly in India
- (4) Every other person is said to be resident in India in any previous year in every case, except where during that year the control and management of his affairs is situated wholly outside India
- (5) If a person is resident in India in a previous year relevant to an assessment year in respect of any source of income, he shall be deemed to be resident in India in the previous year relevant to the assessment year in respect of each of his other sources of income
- (6) A person is said to be "not ordinarily resident" in India in any previous year if such person is—
- (a) an individual who has not been resident in India in nine out of the ten previous years preceding that year, or has not during the seven previous years preceding that year been in India for a period of, or periods amounting in all to, seven hundred and thirty days or more, or
  - (b) a Hindu undivided family whose manager has not been resident in India in nine out of the ten previous years preceding that year, or has not during the seven previous years preceding that year been in India for a period of, or periods amounting in all to, seven hundred and thirty days or more

**7 Income deemed to be received** —The following incomes shall be deemed to be received in the previous year —

- (i) the annual accretion in the previous year to the balance at the credit of an employee participating in a recognised provident fund, to the extent provided in Rule 6 of Part A of the Fourth Schedule,
- (ii) the transferred balance in a recognised provident fund, to the extent provided in sub-rule (4) of Rule 11 of Part A of the Fourth Schedule

**8 Dividend income** —For the purposes of inclusion in the total income of an assessee, any dividend declared by a company or distributed or paid by it within the meaning of sub clause (a) or sub-clause (b) or sub-clause (c) or sub-clause (d) or sub clause (e) of clause (22) of section 2 shall be deemed to be the income of the previous year in which it is so declared, distributed or paid, as the case may be

**9 Income deemed to accrue or arise in India** —(1) The following incomes shall be deemed to accrue or arise in India—

- (i) all income accruing or arising, whether directly or indirectly, (R 10)  
through or from any business connection in India, or through or from any property in India, or through or from any asset or source of income in India, or through or from any money lent at interest and brought into India in cash or in kind or through the transfer of a capital asset situate in India,

*Explanation* —For the purposes of this clause—

- (a) in the case of a business of which all the operations are not carried out in India, the income of the business deemed

under this clause to accrue or arise in India shall be only such part of the income as is reasonably attributable to the operations carried out in India,

- (b) in the case of a non-resident, no income shall be deemed to accrue or arise in India to him through or from operations which are confined to the purchase of goods in India for the purpose of export

Provided that the non-resident has no office or agency in India for this purpose and the goods are not subjected to any kind of manufacturing process before being exported from India,

- (ii) income which falls under the head "Salaries", if it is earned in India,
- (iii) income chargeable under the head "Salaries" payable by the Government to a citizen of India for service outside India,
- (iv) a dividend paid by an Indian company outside India

(2) Notwithstanding anything contained in sub-section (1), any pension payable outside India to a person residing permanently outside India shall not be deemed to accrue or arise in India, if the pension is payable to a person referred to in article 314 of the Constitution or to a person who, having been appointed before the 15th day of August, 1947, to be a Judge of the Federal Court or of a High Court within the meaning of the Government of India Act, 1935, continues to serve on or after the commencement of the Constitution as a Judge in India

### CHAPTER III

#### INCOMES WHICH DO NOT FORM PART OF TOTAL INCOME

10 Incomes not included in total income—In computing the total income of a previous year of any person, any income falling within any of the following clauses shall not be included—

- (1) agricultural income,
- (2) any sum received by an individual as a member of a Hindu undivided family, where such sum has been paid out of the income of the family, or, in the case of any impartible estate, where such sum has been paid out of the income of the estate belonging to the family,
- (3) any receipts which are of a casual and non-recurring nature, unless they are—
  - (i) capital gains, chargeable under the provisions of section 45, or
  - (ii) receipts arising from business or the exercise of a profession or occupation, or
  - (iii) receipts by way of addition to the remuneration of an employee,
- (4) in the case of a non-resident, any income from interest on, or from premium on the redemption of, any bonds issued by the Central Government under a loan agreement between the

Central Government and the International Bank for Reconstruction and Development or under a loan agreement between the Central Government and the Development Loan Fund of the United States of America or by any industrial undertaking or financial corporation in India under a loan agreement with the said Bank or Fund, as the case may be, which is guaranteed by the Central Government, Div. 2 S 10

- (5) subject to such conditions as the Central Government may prescribe, the value of any travel concession or assistance received by or due to any person, being a citizen of India, from his employer for himself, his wife and children, in connection with his proceeding on leave to his home-district in India ,
- (6) in the case of an individual who is not a citizen of India,—
- (i) subject to such conditions as the Central Government may prescribe, passage moneys or the value of any free or concessional passage received by or due to such individual from his employer for himself, his wife and children, in connection with his proceeding on home leave out of India ,
  - (ii) the remuneration received by him as ambassador, high commissioner, envoy, minister, *chargé d'affaires*, commissioner, counsellor or the secretary, adviser or *attache* of an embassy, high commission, legation or commission of a foreign State, for service in such capacity ,
  - (iii) the remuneration received by him as a *consul de carrière*, whether called a consul-general, consul, vice-consul, consular agent, pro-consul or by any other name, of a foreign State for service in such capacity ,
  - (iv) the remuneration received by him as a trade commissioner or other official representative in India of the Government of a foreign State (not holding office as such in an honorary capacity), if the remuneration of the corresponding officials, if any, of the Government resident for similar purposes in the country concerned enjoys a similar exemption in that country ,
  - (v) the remuneration received by him as a member of the staff of any of the officials referred to in clause (ii), clause (iii) or clause (iv), if the member—
    - (a) is a subject of the country represented ,
    - (b) is not engaged in any business or profession or employment in India otherwise than as a member of such staff ,
 and further, where the individual is a member of the staff of any official referred to in clause (iv), if the country represented has made corresponding provisions for similar exemptions in the case of members of the staff of the corresponding officials of the Government ,
  - (vi) the remuneration received by him as an employee of a foreign enterprise for services rendered by him during

his stay in India, provided the following conditions are fulfilled—

- (a) the foreign enterprise is not engaged in any trade or business in India,
  - (b) his stay in India does not exceed in the aggregate a period of ninety days in such previous year, and
  - (c) such remuneration is not liable to be deducted from the income of the employer chargeable under this Act,
- (iii) the remuneration due to or received by him chargeable under the head "Salaries" for services rendered as a technician in the employment of the Government or of a local authority or of any corporation set up under any special law or in any business carried on in India, if he was not resident in any of the four financial years immediately preceding the financial year in which he arrived in India to the extent mentioned below—
- (a) where his contract of service was approved by the Central Government before the commencement of his service—
    - (i) in the case of a technician who has special knowledge and experience in industrial or business management techniques, such remuneration due to or received by him during the period of six months commencing from the date of his arrival in India,
    - (ii) in the case of any other technician, such remuneration due to or received by him during the thirty six months commencing from the date of his arrival in India, and where any such person continues to remain in employment in India after the expiry of the thirty-six months aforesaid and the tax on his income chargeable under the head "Salaries" is paid by the employer to the Central Government (which tax in the case of an employer being a company may be paid notwithstanding anything contained in section 200 of the Companies Act, 1956 (I of 1956)) the tax so paid by the employer for a period not exceeding twenty-four months following the expiry of the thirty-six months aforesaid,
  - (b) in any other case, not being the case of a technician who has special knowledge and experience in industrial or business management techniques, such remuneration due to or received by him for the period of three hundred and sixty-five days in all commencing from the date of his arrival in India,

*Explanation* —"Technician" means a person having specialised knowledge and experience in—

- (i) constructional or manufacturing operations, or in mining or in the generation or distribution of electricity or any other form of power, or

- (ii) industrial or business management techniques, who is employed in India in a capacity in which such specialised knowledge and experience are actually utilised ,
- (viii) any income chargeable under the head "Salaries" received by or due to any such individual being a non-resident as remuneration for services rendered in connection with his employment on a foreign ship where his total stay in India does not exceed in the aggregate a period of ninety days in the previous year ,
- (7) any allowances or perquisites paid or allowed as such outside India by the Government to a citizen of India for rendering service outside India ,
- (8) in the case of an individual who is assigned to duties in India in connection with any co-operative technical assistance programmes and projects in accordance with an agreement entered into by the Central Government and the Government of a foreign State (the terms whereof provide for the exemption given by this clause)—
- (a) the remuneration received by him directly or indirectly from the Government of that foreign State for such duties, and
- (b) any other income of such individual which accrues or arises outside India, and is not deemed to accrue or arise in India, in respect of which such individual is required to pay any income or social security tax to the Government of that foreign State ,
- (9) the income of any member of the family of any such individual as is referred to in clause (8) accompanying him to India, which accrues or arises outside India, and is not deemed to accrue or arise in India, in respect of which such member is required to pay any income or social security tax to the Government of that foreign State ,
- (10) any death-cum-retirement gratuity received under the revised Pension Rules of the Central Government or under any similar scheme of a State Government, a local authority or a corporation established by a Central, State or Provincial Act or any payment of retiring gratuity received after the 1st day of June, 1953, under the New Pension Code applicable to the members of the Defence Services , or any other gratuity not exceeding one half month's salary for each year of completed service, calculated on the basis of the average salary for the three years immediately preceding the year in which the gratuity is paid, subject to a maximum of twenty-four thousand rupees or fifteen months' salary so calculated, whichever is less ,
- (11) any payment from a provident fund to which the Provident Funds Act, 1925 (XIX of 1925), applies ,
- (12) the accumulated balance due and becoming payable to an employee participating in a recognised provident fund, to the extent provided in Rule 8 of Part A of the Fourth Schedule ,
- (13) any payment from an approved superannuation fund made on the death of a beneficiary or in lieu of or in commutation



of an annuity, or by way of refund of contributions on the death of a beneficiary ,

- (14) any special allowance or benefit, not being in the nature of an entertainment allowance or other perquisite within the meaning of clause (2) of section 17, specifically granted to meet expenses wholly, necessarily and exclusively incurred in the performance of the duties of an office or employment of profit, to the extent to which such expenses are actually incurred for that purpose ,
- (15) (i) monthly payment on the 15 Year Annuity Certificates issued by or under the authority of the Central Government or such other annuity certificates issued by or under the authority of that Government as that Government may, by notification in the Official Gazette, specify in this behalf, to the extent to which the amounts of the certificates do not exceed in each case the maximum amount which is permitted to be invested therein ,
- (ii) interest on Treasury Savings Deposit Certificates, Post Office Cash Certificates, Post Office National Savings Certificates, National Plan Certificates, Twelve Year National Plan Savings Certificates and such other certificates issued by the Central Government as that Government may, by notification in the Official Gazette, specify in this behalf, and interest on deposits in Post Office Savings Banks, to the extent to which the amounts of such certificates or deposits do not exceed in each case the maximum amount which is permitted to be invested or deposited therein ,
- (iii) interest on securities held by the Issue Department of the Central Bank of Ceylon constituted under the Ceylon Monetary Law Act, 1949 ,
- (iv) interest payable—
- (a) by Government or a local authority on moneys borrowed by it from sources outside India ,
  - (b) by an industrial undertaking in India on moneys borrowed by it under a loan agreement entered into with any such financial institution in a foreign country as may be approved in this behalf by the Central Government by general or special order ,
  - (c) by an industrial undertaking in India on any moneys borrowed or debt incurred by it in a foreign country in respect of the purchase outside India of raw materials or capital plant and machinery, in any case where the loan or debt is approved by the Central Government, having regard to its terms generally and in particular to the terms of its repayment ,
- (16) scholarships, granted to meet the cost of education ,
- (17) any daily allowance received by any person by reason of his membership of Parliament or of any State Legislature or of any Committee thereof ,
- (18) any payment made, whether in cash or in kind, by the Central Government or any State Government in pursuance of gallantry awards instituted or approved by the Central Government ,

- (19) any amount received by the Ruler of an Indian State as privy purse under article 291 of the Constitution , Div 2  
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- (20) the income of a local authority which is chargeable under the head " Interest on securities ", " Income from house property ", " Capital gains " or " Income from other sources " or from a trade or business carried on by it which accrues or arises from the supply of a commodity or service within its own jurisdictional area ,
- (21) any income of a scientific research association for the time being approved for the purpose of clause (ii) of sub-section (1) of section 35 which is applied solely to the purposes of that association ,
- (22) any income of a University or other educational institution, existing solely for educational purposes and not for purposes of profit ,
- (23) any income of an association or institution established in India having as its object the control, supervision, regulation or encouragement in India of the games of cricket, hockey, football, tennis or such other games or sports as the Central Government may specify in this behalf from time to time by notification in the Official Gazette

Provided that—

- (i) the association or institution applies its income, or accumulates it for application, solely to the objects for which it is established ,
- (ii) no part of the income of the association or institution is distributed in any manner to its members except as grants to any association or institution affiliated to it , and
- (iii) the association or institution is, for the time being, approved for the purpose of this clause by the Central Government by general or special order ,
- (24) any income chargeable under the heads " Interest on securities ", " Income from house property " and " Income from other sources " of a registered union within the meaning of the Indian Trade Unions Act, 1926 (XVI of 1926), formed primarily for the purpose of regulating the relations between workmen and employers or between workmen and workmen ,
- (25) (i) interest on securities which are held by, or are the property of, any provident fund to which the Provident Funds Act, 1925 (XIX of 1925), applies, and any capital gains of the fund arising from the sale, exchange or transfer of such securities ,
- (ii) any income received by the trustees on behalf of a recognised provident fund ,
- (iii) any income received by the trustees on behalf of an approved superannuation fund ,
- (26) in the case of a member of a Scheduled Tribe as defined in clause (25) of article 366 of the Constitution, residing in any area specified in Part A or Part B of the Table appended to paragraph 20 of the Sixth Schedule to the Constitution or in

the Union Territories of Manipur and Tripura, who is not in the service of Government, any income which accrues or arises to him,

- (a) from any source in the area or Union Territories aforesaid, or
- (b) by way of dividend or interest on securities

# 11 Income from property held for charitable or religious purposes —

(1) Subject to the provisions of sections 60 to 63, the following income shall not be included in the total income of the previous year of the person in receipt of the income—

- (a) income derived from property held under trust wholly for charitable or religious purposes, to the extent to which such income is applied to such purposes in India, and, where any such income is accumulated for application to such purposes in India, to the extent to which the income so accumulated is not in excess of twenty-five per cent of the income from the property or rupees ten thousand, whichever is higher,
- (b) income derived from property held under trust in part only for such purposes, the trust having been created before the commencement of this Act, to the extent to which such income is applied to such purposes in India, and where any such income is finally set apart for application to such purposes in India, to the extent to which the income so set apart is not in excess of twenty-five per cent of the income from the property held under trust in part,
- (c) income from property held under trust—
  - (i) created on or after the 1st day of April, 1952, for a charitable purpose which tends to promote international welfare in which India is interested, to the extent to which such income is applied to such purposes outside India, and
  - (ii) for charitable or religious purposes, created before the 1st day of April, 1952, to the extent to which such income is applied to such purposes outside India

Provided that the Board, by general or special order, has directed in either case that it shall not be included in the total income of the person in receipt of such income

*Explanation* —For the purposes of clauses (a) and (b), in computing twenty-five per cent of the income from any such property as is referred to in the said clauses for any previous year, the income from such property for the year immediately preceding the previous year may be adopted, if that income is higher than the income for the previous year

(2) Where the persons in receipt of the income have complied with the following conditions, the restriction specified in clause (a) or clause (b) of sub-section (1) as respects accumulation or setting apart shall not apply for the period during which the said conditions remain complied with—

- (a) such persons have, by notice in writing given to the Income tax Officer in the prescribed manner, specified the purpose for which the income is being accumulated or set apart and the period for which the income is to be accumulated or set apart, which shall in no case exceed ten years,
- (b) the money so accumulated or set apart is invested in any Government security as defined in clause (2) of section 2 of the Public

Debt Act, 1944 (XVIII of 1944), or in any other security which may be approved by the Central Government in this behalf

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(3) Any income referred to in sub-section (1) or sub-section (2) as is applied to purposes other than charitable or religious purposes as aforesaid or ceases to be accumulated or set apart for application thereto or is not utilised for the purpose for which it is so accumulated in the year immediately following the expiry of the period allowed in this behalf shall be deemed to be the income of such person of the previous year in which it is so applied, or ceases to be so accumulated or so set apart or, as the case may be, of the previous year immediately following the expiry of the period aforesaid

(4) For the purposes of this section "property held under trust" includes a business undertaking so held, and where a claim is made that the income of any such undertaking shall not be included in the total income of the persons in receipt thereof, the Income-tax Officer shall have power to determine the income of such undertaking in accordance with the provisions of this Act relating to assessment, and where any income so determined is in excess of the income as shown in the accounts of the undertaking, such excess shall be deemed to be applied to purposes other than charitable or religious purposes and accordingly chargeable to tax within the meaning of sub-section (3)

**12. Income of trusts or institutions from voluntary contributions** — (1) Any income of a trust for charitable or religious purposes or of a charitable or religious institution derived from voluntary contributions and applicable solely to charitable or religious purposes shall not be included in the total income of the trustees or the institution, as the case may be

(2) Notwithstanding anything contained in sub-section (1), where any such contributions as are referred to in sub-section (1) are made to a trust or a charitable or religious institution by a trust or a charitable or religious institution to which the provisions of section 11 apply, such contributions shall, in the hands of the trust or institution receiving the contributions, be deemed to be income derived from property for the purposes of that section and the provisions of that section shall apply accordingly

**13 Section 11 not to apply in certain cases** — Nothing contained in section 11 shall operate so as to exclude from the total income of the previous year of the person in receipt thereof—

- (a) any part of the income from the property held under a trust for private religious purposes which does not enure for the benefit of the public,
- (b) in the case of a \*[trust for charitable purposes or a charitable institution] created or established after the commencement of this Act, any income thereof,
  - (i) if the trust or institution is created or established for the benefit of any particular religious community or caste, or
  - (ii) if under the terms of the trust or the rules governing the institution any part of such income enures directly or indirectly for the benefit of the author of the trust or the founder of the institution or any relative of such author or founder, and, where the author of the trust or the founder of the institution is a Hindu undivided family, any part of

\* Substituted for "trust or charitable institution" by s 5 of the Finance Act, 1963, with retrospective effect from the commencement of the Act

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such income enures directly or indirectly for the benefit of any member of the Hindu undivided family or any relative of any member of the family

*Explanation 1* —For the purposes of sections 11 and 12 and this section, "trust" includes any other legal obligation and for the purposes of this section "relative" also includes a lineal descendant of a brother or sister

*Explanation 2* —A trust or institution created or established for the benefit of Scheduled Castes, backward classes, Scheduled Tribes or women and children shall not be deemed to be a trust or institution created or established for the benefit of a religious community or caste within the meaning of sub clause (i) of clause (b) of this section

## CHAPTER IV

### COMPUTATION OF TOTAL INCOME

#### *Heads of income*

**14 Heads of income** —Save as otherwise provided by this Act, all income shall, for the purposes of charge of income-tax and computation of total income, be classified under the following heads of income —

- A —Salaries
- B —Interest on securities
- C —Income from house property
- D —Profits and gains of business or profession
- E —Capital gains
- F —Income from other sources

#### *A —Salaries*

**15 Salaries** —The following income shall be chargeable to income-tax under the head "Salaries" —

- (a) any salary due from an employer or a former employer to an assessee in the previous year, whether paid or not,
- (b) any salary paid or allowed to him in the previous year by or on behalf of an employer or a former employer though not due or before it became due to him,
- (c) any arrears of salary paid or allowed to him in the previous year by or on behalf of an employer or a former employer, if not charged to income-tax for any earlier previous year

*Explanation* —For the removal of doubts, it is hereby declared that where any salary paid in advance is included in the total income of any person for any previous year it shall not be included again in the total income of the person when the salary becomes due

**16 Deductions from salaries** —The income chargeable under the head "Salaries" shall be computed after making the following deductions, namely —

- (i) any amount not exceeding five hundred rupees, expended by the assessee on the purchase of books and other publications necessary for the purpose of his duties,

- (ii) in respect of any allowance in the nature of an entertainment allowance specifically granted to the assessee by his employer— Div 2  
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- (a) in the case of an assessee who is in receipt of a salary from the Government, a sum equal to one-fifth of his salary (exclusive of any allowance, benefit or other perquisite) or five thousand rupees, whichever is less, and
- (b) in the case of any other assessee who is in receipt of such entertainment allowance and has been continuously in receipt of such entertainment allowance regularly from his present employer from a date before the 1st day of April, 1955, the amount of such entertainment allowance regularly received by the assessee from his present employer in any previous year ending before the 1st day of April, 1955, or a sum equal to one fifth of his salary (exclusive of any allowance, benefit or other perquisite) or seven thousand five hundred rupees, whichever is the least,
- (iii) any amount paid by the assessee in respect of taxes on professions, trades, callings or employments levied under any State or Provincial Act,
- (iv) where the assessee is not in receipt of a conveyance allowance, whether as such or as part of his salary, and owns a conveyance which is used for the purposes of his employment, such sum as the Income tax Officer may estimate in respect of such use as representing the expenditure incurred by him in its maintenance and as representing its normal wear and tear,
- (v) any amount actually expended by the assessee, not being an amount expended on the purchase of books or other publications, or on entertainment or on the maintenance of a conveyance, which, by the conditions of his service, he is required to spend out of his remuneration wholly, necessarily and exclusively in the performance of his duties

17 "Salary", "perquisite" and "profits in lieu of salary" defined —For the purposes of sections 15 and 16 and of this section,—

(1) "salary" includes—

- (i) wages,
- (ii) any annuity or pension,
- (iii) any gratuity,
- (iv) any fees, commissions, perquisites or profits in lieu of or in addition to any salary or wages,
- (v) any advance of salary,
- (vi) the annual accretion to the balance at the credit of an employee participating in a recognised provident fund, to the extent to which it is chargeable to tax under Rule 6 of Part A of the Fourth Schedule, and
- (vii) the aggregate of all sums that are comprised in the transferred balance as referred to in sub-rule (2) of Rule 11 of Part A of the Fourth Schedule of an employee participating in a recognised provident fund, to the extent to which it is chargeable to tax under sub-rule (4) thereof,

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(2) "perquisite" includes—

- (i) the value of rent free accommodation provided to the assessee by his employer ,
- (ii) the value of any concession in the matter of rent respecting any accommodation provided to the assessee by his employer ,
- (iii) the value of any benefit or amenity granted or provided free of cost or at concessional rate in any of the following cases—
  - (a) by a company to an employee who is a director thereof ,
  - (b) by a company to an employee being a person who has a substantial interest in the company ,
  - (c) by any employer (including a company) to an employee to whom the provisions of paragraphs (a) and (b) of this sub clause do not apply and whose income under the head "Salaries", exclusive of the value of all benefits or amenities not provided for by way of monetary payment, exceeds eighteen thousand rupees ,
- (iv) any sum paid by the employer in respect of any obligation which, but for such payment, would have been payable by the assessee , and
- (v) any sum payable by the employer, whether directly or through a fund, other than a recognised provident fund or an approved superannuation fund, to effect an assurance on the life of the assessee or to effect a contract for an annuity ,

(3) "profits in lieu of salary" includes—

- (i) the amount of any compensation due to or received by an assessee from his employer or former employer at or in connection with the termination of his employment or the modification of the terms and conditions relating thereto ,
- (ii) any payment (other than any payment referred to in clause (10), clause (11) or clause (12) of section 10), due to or received by an assessee from an employer or a former employer or from a provident or other fund (not being an approved superannuation fund), to the extent to which it does not consist of contributions by the assessee or interest on such contributions

*B —Interest on securities*

18 Interest on securities —(1) The following amounts due to an assessee in the previous year shall be chargeable to income-tax under the head "Interest on securities",—

- (i) interest on any security of the Central or State Government ,
- (ii) interest on debentures or other securities for money issued by or on behalf of a local authority or a company or a corporation established by a Central, State or Provincial Act

(2) Nothing contained in sub section (1) shall be construed as precluding an assessee from being charged to income tax in respect of any interest on securities received by him in a previous year if such interest had not been charged to income tax for any earlier previous year

**19 Deductions from interest on securities** —Subject to the provisions of section 21, the income chargeable under the head "Interest on securities" shall be computed after making the following deductions—

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- (i) any reasonable sum expended by the assessee for the purpose of realising such interest,
- (ii) any interest payable on moneys borrowed for the purpose of investment in the securities by the assessee

**20 Deductions from interest on securities in the case of a banking company** —(1) In the case of a banking company—

- (i) the sum to be regarded as a sum reasonably expended for the purpose referred to in clause (i) of section 19 shall be an amount bearing to the aggregate of its expenses as are admissible under the provisions of sections 30, 31, 36 and 37 (other than clauses (iii), (vi) and (vii) of sub section (1) of section 36) the same proportion as the gross receipts from interest on securities (inclusive of tax deducted at source) chargeable to income-tax under section 18 bear to the gross receipts of the company from all sources which are included in the profit and loss account of the company,
- (ii) the amount to be regarded as interest payable on moneys borrowed for the purpose referred to in clause (ii) of section 19 shall be an amount which bears to the amount of interest payable on all moneys borrowed by the company the same proportion as the gross receipts from interest on securities (inclusive of tax deducted at source) chargeable to income-tax under section 18 bear to the gross receipts from all sources which are included in the profit and loss account of the company

(2) The expenses deducted under clauses (i) and (ii) of sub-section (1) shall not again form part of the deductions admissible under sections 30 to 37 for the purposes of computing the income of the company under the head "Profits and gains of business or profession"

*Explanation* —For the purposes of this section, "moneys borrowed" includes moneys received by way of deposits

**21. Amounts not deductible from interest on securities** —Notwithstanding anything contained in sections 19 and 20, any interest chargeable under this Act which is payable outside India (not being interest on a loan issued for public subscription before the 1st day of April, 1938) on which tax has not been paid or deducted under Chapter XVII-B, and in respect of which there is no person in India who may be treated as an agent under section 163 shall not be deducted in computing the income chargeable under the head "Interest on securities"

### *C —Income from house property*

**22 Income from house property** —The annual value of property consisting of any buildings or lands appurtenant thereto of which the assessee is the owner, other than such portions of such property as he may occupy for the purposes of any business or profession carried on by him the profits of which are chargeable to income-tax, shall be chargeable to income-tax under the head "Income from house property"

**23 Annual value how determined** —(1) For the purposes of section 22, the annual value of any property shall be deemed to be the sum for which the property might reasonably be expected to let from year to year.



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Provided that where the property is in the occupation of a tenant and the taxes levied by any local authority in respect of the property are, under the law authorising such levy, payable wholly by the owner, or partly by the owner and partly by the tenant, a deduction shall be made equal to the part, if any, of the tenant's liability borne by the owner

*Explanation*—For the purposes of this sub-section in the case of a property the construction of which was completed before the 1st day of April, 1950, the total amount of such taxes, and in the case of any other property, one half of the total amount of such taxes shall be deemed to be the tenant's liability

Provided further that in the case of a building comprising one or more residential units the erection of which is begun and completed after the 1st day of April, 1961, the annual value as determined under this sub-section shall, for a period of three years from the date of completion of the building, be reduced by a sum equal to the aggregate of—

- (i) in respect of any residential unit whose annual value as so determined, does not exceed six hundred rupees, by the amount of such annual value,
  - (ii) in respect of any residential unit whose annual value as so determined exceeds six hundred rupees, by an amount of six hundred rupees,
- so, however, that the income in respect of any residential unit is in no case a loss

(2) Where the property is in the occupation of the owner for the purposes of his own residence, the annual value shall first be determined as in sub-section (1) and further be reduced by one half of the amount so determined or one thousand eight hundred rupees, whichever is less

Provided that where the sum so arrived at exceeds ten per cent of the total income of the owner, the excess shall be disregarded

*Explanation*—Where any such residential unit as is referred to in the second proviso to sub-section (1) is in the occupation of the owner for the purposes of his own residence, nothing contained in that proviso shall apply in computing the annual value of that residential unit

(3) Where the property referred to in sub-section (2) consists of one residential house only and it cannot actually be occupied by the owner by reason of the fact that owing to his employment, business or profession carried on at any other place, he has to reside at that other place in a building not belonging to him, the annual value of such house shall—

- (a) if the house was not actually occupied by the owner during the whole of the previous year, be taken to be nil, or
- (b) if the house was actually occupied by the owner for a fraction of the previous year, be taken to be that fraction of the annual value determined under sub-section (2)

Provided that the following conditions are in either case fulfilled —

- (i) the house is not actually let, and
- (ii) no other benefit therefrom is derived by the owner

**24 Deductions from income from house property**—(1) Income chargeable under the head "Income from house property" shall, subject to

the provisions of sub section (2), be computed after making the following deductions, namely —

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- (i) in respect of repairs,—
  - (a) where the property is in the occupation of the owner, or where the property is let to a tenant and the owner has undertaken to bear the cost of repairs, a sum equal to one sixth of the annual value,
  - (b) where the property is in the occupation of a tenant who has undertaken to bear the cost of repairs,—
    - (i) the excess of the annual value over the amount of rent payable for a year by the tenant, or
    - (ii) a sum equal to one sixth of the annual value, whichever is less,
- (ii) the amount of any premium paid to insure the property against risk of damage or destruction,
- (iii) where the property is subject to a mortgage or other capital charge, the amount of any interest on such mortgage or charge,
- (iv) where the property is subject to an annual charge, not being a capital charge, the amount of such charge,
- (v) where the property is subject to a ground rent, the amount of such ground rent,
- (vi) where the property has been acquired, constructed, repaired, renewed or reconstructed with borrowed capital, the amount of any interest payable on such capital,
- (vii) any sums paid on account of land revenue in respect of the property,
- (viii) any sums spent to collect the rent from the property, not exceeding six per cent of the annual value of the property,
- (ix) where the property is let and was vacant during a part of the year, that part of the annual value which is proportionate to the period during which the property is wholly unoccupied or, where the property is let out in parts, that portion of the annual value appropriate to any vacant part, which is proportionate to the period during which such part is wholly unoccupied, and
- (x) subject to such rules as may be made in this behalf, the amount (R 4) in respect of rent from property let to a tenant which the assessee cannot realise

(2) The total amount deductible under sub section (1) in respect of property of the nature referred to in sub section (3) of section 23 shall not exceed the annual value of the property as determined under section 23

**25 Amounts not deductible from income from house property —** Notwithstanding anything contained in section 24, any annual charge or interest chargeable under this Act which is payable outside India (not being interest on a loan issued for public subscription before the 1st day of April, 1938), on which tax has not been paid or deducted under Chapter XVII-B and in respect of which there is no person in India who may be treated as an agent under section 163 shall not be deducted in computing the income chargeable under the head "Income from house property"

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26 Property owned by co owners —Where property consisting of buildings or buildings and lands appurtenant thereto is owned by two or more persons and their respective shares are definite and ascertainable, such persons shall not in respect of such property be assessed as an association of persons, but the share of each such person in the income from the property as computed in accordance with sections 22 to 25 shall be included in his total income

27 "Owner of house property", "annual charge", etc, defined —  
For the purposes of sections 22 to 26—

- (i) an individual who transfers otherwise than for adequate consideration any house property to his or her spouse, not being a transfer in connection with an agreement to live apart, or to a minor child not being a married daughter, shall be deemed to be the owner of the house property so transferred,
- (ii) the holder of an impartible estate shall be deemed to be the individual owner of all the properties comprised in the estate,
- (iii) a member of a co operative society to whom a building or part thereof is allotted or leased under a house building scheme of the society shall be deemed to be the owner of that building or part thereof,
- (iv) "annual charge" means a charge to secure an annual liability, but does not include any tax in respect of property or income from property imposed by a local authority, or the Central or a State Government,
- (v) "capital charge" means a charge to secure the discharge of a liability of a capital nature,
- (vi) taxes levied by a local authority in respect of any property shall be deemed to include service taxes levied by the local authority in respect of the property

*D —Profits and gains of business or profession*

28 Profits and gains of business or profession —The following income shall be chargeable to income-tax under the head "Profits and gains of business or profession",—

- (i) the profits and gains of any business or profession which was carried on by the assessee at any time during the previous year,
- (ii) any compensation or other payment due to or received by,—
  - (a) any person, by whatever name called, managing the whole or substantially the whole of the affairs of an Indian company, at or in connection with the termination of his management or the modification of the terms and conditions relating thereto,
  - (b) any person, by whatever name called, managing the whole or substantially the whole of the affairs in India of any other company, at or in connection with the termination of his office or the modification of the terms and conditions relating thereto,
  - (c) any person, by whatever name called, holding an agency in India for any part of the activities relating to the business of any other person, at or in connection with the termination of the agency or the modification of the terms and conditions relating thereto,

- (iii) income derived by a trade, professional or similar association from specific services performed for its members Div 2  
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*Explanation 1*—The profits and gains of a business shall include the profits and gains of managing agency 28-32

*Explanation 2*—Where speculative transactions carried on by an assessee are of such a nature as to constitute a business, the business (hereinafter referred to as “speculation business”) shall be deemed to be distinct and separate from any other business

**29 Income from profits and gains of business or profession, how computed**—The income referred to in section 28 shall be computed in accordance with the provisions contained in sections 30 to 43

**30 Rent, rates, taxes, repairs and insurance for buildings**—In respect of rent, rates, taxes, repairs and insurance for premises, used for the purposes of the business or profession, the following deductions shall be allowed—

- (a) where the premises are occupied by the assessee—
  - (i) as a tenant, the rent paid for such premises, and further if he has undertaken to bear the cost of repairs to the premises, the amount paid on account of such repairs,
  - (ii) otherwise than as a tenant, the amount paid by him on account of current repairs to the premises,
- (b) any sums paid on account of land revenue, local rates or municipal taxes,
- (c) the amount of any premium paid in respect of insurance against risk of damage or destruction of the premises

**31 Repairs and insurance of machinery, plant and furniture**—In respect of repairs and insurance of machinery, plant or furniture used for the purposes of the business or profession, the following deductions shall be allowed—

- (i) the amount paid on account of current repairs thereto,
- (ii) the amount of any premium paid in respect of insurance against risk of damage or destruction thereof

**32 Depreciation**—(1) In respect of depreciation of buildings, machinery, plant or furniture owned by the assessee and used for the purposes of the business or profession, the following deductions shall, subject to the provisions of section 34, be allowed—

- (i) in the case of ships other than ships ordinarily plying on inland waters, such percentage on the actual cost thereof to the assessee as may in any case or class of cases be prescribed, (R 5)
- (ii) in the case of buildings, machinery, plant or furniture, other than ships covered by clause (i), such percentage on the written down value thereof as may in any case or class of cases be prescribed, (R 5)
- (iii) in the case of any building, machinery, plant or furniture which is sold, discarded, demolished or destroyed in the previous year (other than the previous year in which it is first brought into use), the amount by which the moneys payable in respect of such building, machinery, plant or furniture, together with the amount of scrap value, if any, fall short of the written down value thereof

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Provided that such deficiency is actually written off in the books of the assessee,

*Explanation*—For the purposes of this clause,—

- (1) "moneys payable" in respect of any building, machinery, plant or furniture includes—
  - (a) any insurance, salvage or compensation moneys payable in respect thereof,
  - (b) where the building, machinery, plant or furniture is sold, the price for which it is sold.
- (2) "sold" includes a transfer by way of exchange or a compulsory acquisition under any law for the time being in force,
- (iv) in the case of any building which has been newly erected after the 31st day of March, 1961, where the building is used solely for the purpose of residence of persons employed in the business and drawing a remuneration not exceeding two hundred rupees per mensem, or where the building is used solely or mainly for the welfare of such persons as a hospital, creche, school, canteen, library, recreational centre, shelter, rest-room or lunch-room, a sum equal to twenty per cent of the actual cost of the building to the assessee in respect of the previous year of creation of the building, but any such sum shall not be deductible in determining the written down value for the purposes of clause (ii) of sub-section (1)

(2) Where, in the assessment of the assessee (or, if the assessee is a registered firm or an unregistered firm assessed as a registered firm, in the assessment of its partners) full effect cannot be given to any allowance under clause (i) or clause (ii) or clause (ii) of sub section (1) in any previous year owing to there being no profits or gains chargeable for that previous year, or owing to the profits or gains chargeable being less than the allowance, then, subject to the provisions of sub-section (2) of section 72 and sub section (3) of section 73, the allowance or part of the allowance to which effect has not been given as the case may be, shall be added to the amount of the allowance for depreciation for the following previous year and deemed to be part of that allowance, or if there is no such allowance for that previous year, be deemed to be the allowance for that previous year, and so on for the succeeding previous years

**33 Development rebate**—(1) In respect of a new ship acquired or new machinery or plant (other than office appliances or road transport vehicles) installed after the 31st day of March, 1954, which is owned by the assessee and is wholly used for the purposes of the business carried on by him, a sum by way of development rebate, equivalent to—

- (i) in the case of a ship acquired after the 31st day of December, 1957, forty per cent and in the case of a ship acquired before the 1st day of January, 1958, twenty-five per cent of the actual cost of the ship to the assessee, and
- (ii) in the case of machinery or plant installed before the 1st day of April, 1961, twenty-five per cent and in the case of machinery or plant installed after the 31st day of March, 1961, twenty per cent of the actual cost of the machinery or plant to the assessee,

shall, subject to the provisions of section 34, be allowed as a deduction in respect of the previous year in which the ship was acquired or the machinery or plant was installed or, if the ship, machinery or plant is first put to use in the immediately succeeding previous year, then, in respect of that previous year.

(2) In the case of a ship acquired or machinery or plant installed after the 31st day of December, 1957, where the total income of the assessee assessable for the assessment year relevant to the previous year in which the ship was acquired or the machinery or plant installed or the immediately succeeding previous year, as the case may be, (the total income for this purpose being computed without making any allowance under sub-section (1)) is nil or is less than the full amount of the development rebate calculated at the rate applicable thereto under that sub-section,—

- (i) the sum to be allowed by way of development rebate for that assessment year under sub-section (1) shall be only such amount as is sufficient to reduce the said total income to nil, and
- (ii) the amount of the development rebate, to the extent to which it has not been allowed as aforesaid, shall be carried forward to the following assessment year, and the development rebate to be allowed for the following assessment year shall be such amount as is sufficient to reduce the total income of the assessee assessable for that assessment year, computed in the manner aforesaid, to nil, and the balance of the development rebate, if any, still outstanding shall be carried forward to the following assessment year and so on, so however that no portion of the development rebate shall be carried forward for more than eight assessment years immediately succeeding the assessment year relevant to the previous year in which the ship was acquired or the machinery or plant installed or the immediately succeeding previous year, as the case may be

*Explanation* —Where for any assessment year development rebate is to be allowed in accordance with the provisions of sub-section (2) in respect of ships acquired or machinery or plant installed in more than one previous year, and the total income of the assessee assessable for that assessment year (the total income for this purpose being computed without making any allowance under sub-section (1)) is less than the aggregate of the amounts due to be allowed in respect of the assets aforesaid for that assessment year, the following procedure shall be followed, namely —

- (i) the allowance under clause (ii) of sub-section (2) shall be made before any allowance under clause (i) of that sub-section is made, and
- (ii) where an allowance has to be made under clause (ii) of sub-section (2) in respect of amounts carried forward from more than one assessment year, the amount carried forward from an earlier assessment year shall be allowed before any amount carried forward from a later assessment year

(3) Where in a scheme of amalgamation, a company (hereinafter in this sub-section referred to as the predecessor) sells or otherwise transfers to the company formed in pursuance of the predecessor's amalgamation with that company (hereinafter in this sub-section referred to as the successor) any ship, machinery or plant in respect of which development rebate has been allowed to the predecessor under sub-section (1),—

- (a) the successor shall continue to fulfil the conditions mentioned in sub section (3) of section 34 in respect of the reserve created

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by the predecessor or and in respect of the period within which such ship, machinery or plant shall not be sold or otherwise transferred and in default of any of these conditions the provisions of sub-section (5) of section 155 shall apply to the successor as they would have applied to the predecessor or had it committed the default

- (b) the balance of development rebate, if any, still outstanding to the predecessor in respect of such ship, machinery or plant shall be allowed to the successor in accordance with the provisions of sub-section (2), so, however, that the total period for which the balance of development rebate shall be carried forward in the assessments of the predecessor or and the successor shall not exceed the period of eight years specified in sub-section (2) and the successor shall be treated as the assessee in respect of such ship, machinery or plant for the purposes of section 33 and section 34

*Explanation*—For the purposes of this sub-section, "amalgamation" means the merger of two or more companies (each of which is hereinafter in this Explanation referred to as the amalgamating company) to form one company (hereinafter in this Explanation referred to as the amalgamated company) in such a manner that—

- (i) all the property of the amalgamating companies immediately before the amalgamation become the property of the amalgamated company by virtue of the amalgamation,
- (ii) all the liabilities of the amalgamating companies immediately before the amalgamation become the liabilities of the amalgamated company by virtue of the amalgamation, and
- (iii) shareholders holding not less than nine tenths in value of the shares of the amalgamating companies immediately before the amalgamation become shareholders of the amalgamated company by virtue of the amalgamation,

otherwise than as a result of the acquisition of property of one company by another company pursuant to the purchase of such property by the other company or as a result of the distribution of such property to the other company after the winding up of the first-mentioned company,

and includes the merger of a subsidiary company in the holding company, where the whole of the share capital of the subsidiary company is held by the holding company or its nominee and the subsidiary company is an Indian company

- (4) Where a firm is succeeded to by a company in the business carried on by it as a result of which the firm sells or otherwise transfers to the company any ship, machinery or plant, the provisions of clauses (a) and (b) of sub-section (3) shall, so far as may be, apply to the firm and the company

*Explanation*—The provisions of this clause shall apply only where—

- (i) all the property of the firm relating to the business immediately before the succession becomes the property of the company,
- (ii) all the liabilities of the firm relating to the business immediately before the succession become the liabilities of the company, and
- (iii) all the shareholders of the company were partners of the firm immediately before the succession

**34 Conditions for depreciation allowance and development rebate — Div 2**

(1) The deductions referred to in sub section (1) of section 32 shall be allowed only if the prescribed particulars have been furnished, and the deduction referred to in section 33 shall be allowed only if the particulars prescribed for the purpose of clause (i) and clause (ii) of sub-section (1) of section 32 have been furnished by the assessee in respect of the ship or machinery or plant

(2) For the purposes of section 32—

- (i) the aggregate of all deductions in respect of depreciation made under sub section (1) of section 32 or under the Indian Income-tax Act, 1922 (XI of 1922), or under any Act repealed by that Act or under the Indian Income-tax Act, 1886 (II of 1886), shall, in no case, exceed the actual cost to the assessee of the buildings, machinery, plant or furniture, as the case may be,

*Explanation* —Where a capital asset is transferred by a company to a subsidiary company, then, if the conditions of clause (iv) of section 47 are satisfied, in determining the aggregate of all deductions in respect of depreciation under this clause, account shall also be taken of the deductions in respect of depreciation allowed in the case of the company from which the asset has been transferred,

- (ii) nothing in clause (i) or clause (ii) or clause (iv) of sub-section (1) of section 32 shall be deemed to authorise the allowance for any previous year of any sum in respect of any building, machinery, plant or furniture sold, discarded, demolished or destroyed in that year

(3) (a) The deduction referred to in section 33 shall not be allowed unless an amount equal to seventy-five per cent of the development rebate to be actually allowed is debited to the profit and loss account of the relevant previous year and credited to a reserve account to be utilised by the assessee during a period of eight years next following for the purposes of the business of the undertaking, other than—

(i) for distribution by way of dividends or profits, or

(ii) for remittance outside India as profits or for the creation of any asset outside India

Provided that this clause shall not apply where the assessee is a company, being a licensee within the meaning of the Electricity (Supply) Act, 1948 (LIV of 1948), or where the ship has been acquired or the machinery or plant has been installed before the 1st day of January, 1958

(b) If any ship, machinery or plant is sold or otherwise transferred by the assessee to any person at any time before the expiry of eight years from the end of the previous year in which it was acquired or installed, any allowance made under section 33 or under the corresponding provisions of the Indian Income tax Act, 1922 (XI of 1922), in respect of that ship, machinery or plant shall be deemed to have been wrongly made for the purposes of this Act, and the provisions of sub section (5) of section 155 shall apply accordingly

Provided that this clause shall not apply—

(i) where the ship has been acquired or the machinery or plant has been installed before the 1st day of January, 1958, or

(ii) where the ship, machinery or plant is sold or otherwise transferred by the assessee to the Government, a local authority, a



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corporation established by a Central, State or Provincial Act or a Government company as defined in section 617 of the Companies Act, 1956 (I of 1956) , or

- (iii) where the sale or transfer of the ship, machinery or plant is made in connection with the amalgamation or succession, referred to in sub-section (3) or sub section (4) of section 33

**35 Expenditure on scientific research** —(1) In respect of expenditure on scientific research, the following deductions shall be allowed—

- (i) any expenditure (not being in the nature of capital expenditure) laid out or expended on scientific research related to the business ,
- (ii) any sum paid to a scientific research association which has as its object the undertaking of scientific research or to a university, college or other institution to be used for scientific research

(R 6)                      Provided that such association, university, college or institution is for the time being approved for the purposes of this clause by the prescribed authority ,

- (R 6)                      (iii) any sum paid to a university, college or other institution to be used for research in social science or statistical research related to the class of business carried on, being a university, college or institution which is for the time being approved for the purposes of this clause by the prescribed authority ,
- (iv) in respect of any expenditure of a capital nature on scientific research related to the business carried on by the assessee, such deduction as may be admissible under the provisions of sub section (2)

(2) For the purposes of clause (iv) of sub section (1),—

- (i) one-fifth of the capital expenditure incurred in any previous year shall be deducted for that previous year , and the balance of the expenditure shall be deducted in equal instalments for each of the four immediately succeeding previous years ,

*Explanation* —Where any capital expenditure has been incurred before the commencement of the business, the aggregate of the expenditure so incurred within the three years immediately preceding the commencement of the business shall be deemed to have been incurred in the previous year in which the business is commenced ,

- (ii) notwithstanding anything contained in clause (i) where an asset representing expenditure of a capital nature ceases to be used in a previous year for scientific research related to the business and the value of the asset at the time of the cessation, together with the aggregate of deductions already allowed under clause (i) falls short of the said expenditure, then—

(a) there shall be allowed a deduction for that previous year of an amount equal to such deficiency, and

(b) no deduction shall be allowed under that clause for that previous year or for any subsequent previous year ,

- (iii) if the asset mentioned in clause (ii) is sold, without having been used for other purposes, in the year of cessation, the sale price shall be taken to be the value of the asset at the time of

the cessation, and if the asset is sold, without having been used for other purposes, in a previous year subsequent to the year of cessation, and the sale price falls short of the value of the asset taken into account at the time of cessation, an amount equal to the deficiency shall be allowed as a deduction for the previous year in which the sale took place, Div 2  
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- (iv) where a deduction is allowed for any previous year under this section in respect of expenditure represented wholly or partly by an asset, no deduction shall be allowed under clauses (i), (ii) and (iii) of sub-section (1) of section 32 for the same previous year in respect of that asset,
- (v) where the asset is used in the business after it ceases to be used for scientific research related to that business, depreciation shall be admissible under clauses (i), (ii) and (iii) of sub-section (1) of section 32

(3) If any question arises under this section as to whether, and if so, to what extent, any activity constitutes or constituted, or any asset is or was being used for, scientific research, the Board shall refer the question to the prescribed authority, whose decision shall be final

(4) The provisions of sub section (2) of section 32 shall apply in relation to deductions allowable under clause (iv) of sub-section (1) as they apply in relation to deductions allowable in respect of depreciation

**36 Other deductions**—(1) The deductions provided for in the following clauses shall be allowed in respect of the matters dealt with therein, in computing the income referred to in section 28—

- (i) the amount of any premium paid in respect of insurance against risk of damage or destruction of stocks or stores used for the purposes of the business or profession,
- (ii) any sum paid to an employee as bonus or commission for services rendered, where such sum would not have been payable to him as profits or dividend if it had not been paid as bonus or commission

Provided that the amount of the bonus or commission is reasonable with reference to—

- (a) the pay of the employee and the conditions of his service,
- (b) the profits of the business or profession for the previous year in question, and
- (c) the general practice in similar business or profession,
- (iii) the amount of the interest paid in respect of capital borrowed for the purposes of the business or profession,

*Explanation*—Recurring subscriptions paid periodically by shareholders or subscribers in Mutual Benefit Societies which fulfil such conditions as may be prescribed, shall be deemed to be capital borrowed within the meaning of this clause,

- (iv) any sum paid by the assessee as an employer by way of contribution towards a recognised provident fund or an approved superannuation fund, subject to such limits as may be prescribed for the purpose of recognising the provident fund or approving the superannuation fund, as the case may (R 75)

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be, and subject to such conditions as the Board may think fit to specify in cases where the contributions are not in the nature of annual contributions of fixed amounts or annual contributions fixed on some definite basis by reference to the income chargeable under the head "Salaries" or to the contributions or to the number of members of the fund,

- (v) any sum paid by the assessee as an employer by way of contribution towards an approved gratuity fund created by him for the exclusive benefit of his employees under an irrevocable trust,
- (vi) in respect of animals which have been used for the purposes of the business or profession otherwise than as stock-in-trade and have died or become permanently useless for such purposes, the difference between the actual cost to the assessee of the animals and the amount, if any, realised in respect of the carcasses or animals,
- (vii) subject to the provisions of sub section (2), the amount of any debt, or part thereof, which is established to have become a bad debt in the previous year,
- (viii) in respect of any special reserve created by a financial corporation which is engaged in providing long-term finance for industrial development in India, an amount not exceeding ten per cent of the total income carried to such reserve account

Provided that the corporation is for the time being approved by the Central Government for the purposes of this clause

Provided further that where the aggregate of the amounts carried to such reserve account from time to time exceeds the paid up share capital (excluding the amounts capitalised from reserves) of the corporation, no allowance under this clause shall be made in respect of such excess

(2) In making any deduction for a bad debt or part thereof, the following provisions shall apply —

- (i) no such deduction shall be allowed unless such debt or part thereof—
  - (a) has been taken into account in computing the income of the assessee of that previous year or of an earlier previous year, or represents money lent in the ordinary course of the business of banking or money-lending which is carried on by the assessee, and
  - (b) has been written off as irrecoverable in the accounts of the assessee for that previous year,
- (ii) if the amount ultimately recovered on any such debt or part of debt is less than the difference between the debt or part and the amount so deducted, the deficiency shall be deductible in the previous year in which the ultimate recovery is made,
- (iii) any such debt or part of debt may be deducted if it has already been written off as irrecoverable in the accounts of an earlier previous year, but the Income-tax Officer had not allowed it to be deducted on the ground that it had not been established to have become a bad debt in that year,

- (iv) where any such debt or part of debt is written off as irrecoverable in the accounts of the previous year and the Income-tax Officer is satisfied that such debt or part became a bad debt in any earlier previous year not falling beyond a period of four previous years immediately preceding the previous year in which such debt or part is written off, the provisions of sub section (6) of section 155 shall apply

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**37. General**—(1) Any expenditure (not being expenditure of the nature described in sections 30 to 36 and not being in the nature of capital expenditure or personal expenses of the assessee), laid out or expended wholly and exclusively for the purposes of the business or profession shall be allowed in computing the income chargeable under the head "Profits and gains of business or profession"

(2) Notwithstanding anything contained in sub section (1), no expenditure in the nature of entertainment expenditure shall be allowed in the case of a company, which exceeds the aggregate amount computed as hereunder —

- (i) on the first Rs 10,00,000 of the profits and gains of the business (computed before making any allowance under section 33 or in respect of entertainment expenditure) at the rate of 1% or Rs 5,000, whichever is higher,
- (ii) on the next Rs 40,00,000 of the profits and gains of the business (computed in the manner aforesaid) at the rate of \* $\frac{1}{2}$ %,
- (iii) on the next Rs 1,20,00,000 of the profits and gains of the business (computed in the manner aforesaid) at the rate of † $\frac{1}{4}$ % ,
- (iv) on the balance of the profits and gains of the business (computed in the manner aforesaid) nil

**38 Building, etc , partly used for business, etc , or not exclusively so used**—(1) Where a part of any premises is used as dwelling house by the assessee,—

- (a) the deduction under sub clause (i) of clause (a) of section 30, in the case of rent, shall be such amount as the Income-tax Officer may determine having regard to the proportionate annual value of the part used for the purpose of the business or profession, and in the case of any sum paid for repairs, such sum as is proportionate to the part of the premises used for the purpose of the business or profession ,
- (b) the deduction under clause (b) of section 30 shall be such sum as the Income-tax Officer may determine having regard to the part so used

(2) Where any building, machinery, plant or furniture is not exclusively used for the purposes of the business or profession, the deductions under sub-clause (ii) of clause (a) and clause (c) of section 30, clauses (i) and (ii) of

\* Substituted for " $\frac{1}{2}$ %" by s 4 of the Finance (No 2) Act, 1962, with effect from the 1st April, 1962

† Substituted for " $\frac{1}{4}$ %", ibid , with effect from the 1st April, 1962

Div 2 section 31 and clauses (i), (ii) and (iii) of sub section (1) of section 32 shall  
Ss be restricted to a fair proportionate part thereof which the Income tax  
38-40 Officer may determine, having regard to the user of such building, machinery,  
plant or furniture for the purposes of the business or profession

**39 Managing agency commission**—Where a managing agent of a company is liable under an agreement in writing made for adequate consideration to share managing agency commission with a third party or third parties, the said agent and the said party or parties shall file a declaration showing the proportion in which such commission is shared between them under the agreement, and on proof to the satisfaction of the Income-tax Officer of the facts contained in such declaration, such agent and each such party shall be chargeable only on the share to which such agent or party is entitled under the agreement

**40 Amounts not deductible**—Notwithstanding anything to the contrary in sections 30 to 39, the following amounts shall not be deducted in computing the income chargeable under the head "Profits and gains of business or profession",

(a) in the case of any assessee—

- (i) any interest chargeable under this Act which is payable outside India (not being interest on a loan issued for public subscription before the 1st day of April, 1938), on which tax has not been paid or deducted under Chapter XVII-B and in respect of which there is no person in India who may be treated as an agent under section 163,
- (ii) any sum paid on account of any rate or tax levied on the profits or gains of any business or profession or assessed at a proportion of, or otherwise on the basis of, any such profits or gains,
- (iii) any payment which is chargeable under the head "Salaries", if it is payable outside India and if the tax has not been paid thereon nor deducted therefrom under Chapter XVII-B,
- (iv) any payment to a provident or other fund established for the benefit of employees of the assessee, unless the assessee has made effective arrangements to secure that tax shall be deducted at source from any payments made from the fund which are chargeable to tax under the head "Salaries",

(b) in the case of any firm, any payment of interest, salary, bonus, commission or remuneration made by the firm to any partner of the firm,

(c) in the case of any company—

- (i) any expenditure which results directly or indirectly in the provision of any remuneration or benefit or amenity to a director or to a person who has a substantial interest in the company or to a relative of the director or of such person as the case may be,
- (ii) any expenditure or allowance in respect of any assets of the company used by any person referred to in sub clause (i) either wholly or partly for his own purposes or benefit,

if in the opinion of the Income-tax Officer any such expenditure or allowance as is mentioned in sub-clauses (i) and (ii) is excessive or unreasonable having regard to the legitimate business needs of the company and the benefit derived by or accruing to it therefrom ,

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\*[(iii) any expenditure which results directly or indirectly in the provision of any remuneration or benefit or amenity to an employee who is a citizen of India, to the extent such expenditure exceeds the amount calculated at the rate of five thousand rupees per month for any period of his employment after the 28th day of February, 1963

Provided that in computing the aforesaid expenditure, any payments by way of gratuity or any sums comprised in the transferred balance of an employee participating in a recognised provident fund referred to in clause (vii) of sub-section (1) of section 17, or the amount of any compensation referred to in clause (i) or any payment referred to in clause (ii) of sub-section (3) of that section shall not be taken into account , ]

*Explanation* —The provisions of this clause shall apply notwithstanding that any amount not to be allowed under this clause is included in the total income of any person referred to in sub-clause (i) \*[or in sub-clause (iii)] ,

(d) in the case of a banking company, the amounts which have been allowed as a deduction in computing its income chargeable to income-tax under the head "Interest on securities" under the provisions of sub-section (1) of section 20

**41 Profits chargeable to tax** —(1) Where an allowance or deduction has been made in the assessment for any year in respect of loss, expenditure or trading liability incurred by the assessee, and subsequently during any previous year the assessee has obtained, whether in cash or in any other manner whatsoever, any amount in respect of such loss or expenditure or some benefit in respect of such trading liability by way of remission or cessation thereof, the amount obtained by him or the value of benefit accruing to him, shall be deemed to be profits and gains of business or profession and accordingly chargeable to income-tax as the income of that previous year, whether the business or profession in respect of which the allowance or deduction has been made is in existence in that year or not

(2) Where any building, machinery, plant or furniture which is owned by the assessee and which was or has been used for the purposes of business or profession is sold, discarded, demolished or destroyed and the moneys payable in respect of such building, machinery, plant or furniture, as the case may be, together with the amount of scrap value, if any, exceed the written down value, so much of the excess as does not exceed the difference between the actual cost and the written down value shall be chargeable to income-tax as income of the business or profession of the previous year in which the moneys payable for the building, machinery, plant or furniture became due

Provided that where the building sold, discarded, demolished or destroyed is a building to which *Explanation 5* to section 43 applies, and the moneys payable in respect of such building, together with the amount of

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scrap value, if any, exceed the actual cost as determined under that Explanation, so much of the excess as does not exceed the difference between the actual cost so determined and the written down value shall be chargeable to income tax as income of the business or profession of such previous year

*Explanation*—Where the moneys payable in respect of the building, machinery, plant or furniture referred to in this sub-section become due in a previous year in which the business or profession for the purpose of which the building, machinery, plant or furniture was being used is no longer in existence, the provisions of this sub section shall apply as if the business or profession is in existence in that previous year

(3) Where an asset representing expenditure of a capital nature on scientific research within the meaning of clause (iv) of sub section (1) of section 35, read with clause (4) of section 43, is sold, without having been used for other purposes, and the proceeds of the sale together with the total amount of the deductions made under clause (i) of sub-section (2) of section 35 exceed the amount of the capital expenditure, the excess or the amount of the deductions so made, whichever is the less, shall be chargeable to income tax as income of the business or profession of the previous year in which the sale took place

*Explanation*—Where the moneys payable in respect of any asset referred to in this sub section become due in a previous year in which the business is no longer in existence, the provisions of this sub section shall apply as if the business is in existence in that previous year

(4) Where a deduction has been allowed in respect of a bad debt or part of debt under the provisions of clause (vi) of sub section (1) of section 36, then, if the amount subsequently recovered on any such debt or part is greater than the difference between the debt or part of debt and the amount so allowed, the excess shall be deemed to be profits and gains of business or profession, and accordingly chargeable to income-tax as the income of the previous year in which it is recovered, whether the business or profession in respect of which the deduction has been allowed is in existence in that year or not

*Explanation*—The expression “moneys payable” and the expression “sold” in sub sections (2) and (3) shall have the same meanings as in sub-section (1) of section 32

(5) Where the business or profession referred to in this section is no longer in existence and there is income chargeable to tax under sub section (1), sub section (2), sub-section (3) or sub section (4) in respect of that business or profession, any loss, not being a loss sustained in speculation business or under the head “Capital gains”, which arose in that business or profession during the previous year in which it ceased to exist and which could not be set off against any other income of that previous year shall, so far as may be, be set off against the income chargeable to tax under the sub sections aforesaid

**42 Special provision for deductions in the case of business for prospecting, etc., for mineral oil**—For the purpose of computing the profits or gains of any business consisting of the prospecting for or extraction or production of mineral oils in relation to which the Central Government has entered into an agreement with any person for the association or participation in such business of the Central Government (which agreement has been laid on the Table of each House of Parliament), there shall be made in lieu of, or in

addition to, the allowances admissible under this Act, such allowances as are specified in the agreement in relation—

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- (a) to expenditure by way of infructuous or abortive exploration expenses in respect of any area surrendered prior to the beginning of commercial production by the assessee,
- (b) after the beginning of commercial production, to expenditure incurred by the assessee, whether before or after such commercial production, in respect of drilling or exploration activities or services or in respect of physical assets used in that connection, except assets on which allowance for depreciation is admissible under section 32, and
- (c) to the depletion of mineral oil in the mining area in respect of the assessment year relevant to the previous year in which commercial production is begun and for such succeeding year or years as may be specified in the agreement,

and such allowances shall be computed and made in the manner specified in the agreement, the other provisions of this Act being deemed for this purpose to have been modified to the extent necessary to give effect to the terms of the agreement

**43 Definitions of certain terms relevant to income from profits and gains of business or profession**—In sections 28 to 41 and in this section, unless the context otherwise requires—

- (1) “actual cost” means the actual cost of the assets to the assessee, reduced by that portion of the cost thereof, if any, as has been met directly or indirectly by any other person or authority

*Explanation 1*—Where an asset is used in the business after it ceases to be used for scientific research related to that business and a deduction has to be made under clause (i), clause (ii) or clause (iii) of sub section (1) of section 32 in respect of that asset, the actual cost of the asset to the assessee shall be the actual cost to the assessee as reduced by the amount of any deduction allowed under clause (iv) of sub section (1) of section 35 or under any corresponding provision of the Indian Income-tax Act, 1922 (XI of 1922)

*Explanation 2*—Where an asset is acquired by the assessee by way of gift or inheritance, the actual cost of the asset to the assessee shall be the written down value thereof as in the case of the previous owner for the previous year in which the asset is so acquired or the market value thereof on the date of such acquisition, whichever is the less

*Explanation 3*—Where, before the date of acquisition by the assessee, the assets were at any time used by any other person for the purposes of his business or profession and the Income-tax Officer is satisfied that the main purpose of the transfer of such assets, directly or indirectly to the assessee, was the reduction of a liability to income-tax (by claiming depreciation with reference to an enhanced cost), the actual cost to the assessee shall be such an amount as the Income-tax Officer may, with the previous approval of the Inspecting



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Assistant Commissioner, determine having regard to all the circumstances of the case

*Explanation 4*—Where assets which had once belonged to the assessee and had been used by him for the purposes of his business or profession and thereafter ceased to be his property by reason of transfer or otherwise, are re-acquired by him, the actual cost to the assessee shall be the actual cost to him when he first acquired the assets less the depreciation actually allowed to him under this Act or under the corresponding provisions of the Indian Income-tax Act, 1922 (XI of 1922), diminished by any loss deducted, or as the case may be, increased by any profit assessed, under the provisions of clause (iii) of sub section (1) of section 32 or sub section (2) of section 41 of this Act or under the corresponding provisions of the Indian Income-tax Act, 1922 (XI of 1922), or the actual price for which the asset is re acquired by him, whichever is the less

*Explanation 5*—Where a building previously the property of the assessee is brought into use for the purpose of the business or profession after the 28th day of February, 1946, the actual cost to the assessee shall be the actual cost of the building to the assessee, as reduced by an amount equal to the depreciation calculated at the rate in force on that date that would have been allowable had the building been used for the aforesaid purposes since the date of its acquisition by the assessee

*Explanation 6*—When any capital asset is transferred by a company to its subsidiary company, then, if the conditions of clause (iv) of section 47 are satisfied, the actual cost of the transferred capital asset to the subsidiary company shall be taken to be the same as it would have been if the parent company had continued to hold the capital asset for the purposes of its business ,

- (2) "paid" means actually paid or incurred according to the method of accounting upon the basis of which the profits or gains are computed under the head "Profits and gains of business or profession",
- (3) "plant" includes ships, vehicles, books, scientific apparatus and surgical equipment used for the purposes of the business or profession ,
- (4) (i) "scientific research" means any activities in the fields of natural or applied science for the extension of knowledge ,  
 (ii) references to expenditure incurred on scientific research include all expenditure incurred for the prosecution, or the provision of facilities for the prosecution, of scientific research, but do not include any expenditure incurred in the acquisition of rights in, or arising out of, scientific research ,  
 (iii) references to scientific research related to a business or class of business include—  
 (a) any scientific research which may lead to or facilitate an extension of that business or, as the case may be, all businesses of that class ,

- (b) any scientific research of a medical nature which has a special relation to the welfare of workers employed in that business or, as the case may be, all businesses of that class, Div 2  
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- (5) "speculative transaction" means a transaction in which a contract for the purchase or sale of any commodity, including stocks and shares, is periodically or ultimately settled otherwise than by the actual delivery or transfer of the commodity or scrips

Provided that for the purposes of this clause—

- (a) a contract in respect of raw materials or merchandise entered into by a person in the course of his manufacturing or merchanting business to guard against loss through future price fluctuations in respect of his contracts for actual delivery of goods manufactured by him or merchandise sold by him, or
- (b) a contract in respect of stocks and shares entered into by a dealer or investor therein to guard against loss in his holdings of stocks and shares through price fluctuations, or
- (c) a contract entered into by a member of a forward market or a stock exchange in the course of any transaction in the nature of jobbing or arbitrage to guard against loss which may arise in the ordinary course of his business as such member,
- shall not be deemed to be a speculative transaction,
- (6) "written down value" means—
- (a) in the case of assets acquired in the previous year, the actual cost to the assessee,
- (b) in the case of assets acquired before the previous year, the actual cost to the assessee less all depreciation actually allowed to him under this Act, or under the Indian Income-tax Act, 1922 (XI of 1922), or any Act repealed by that Act, or under any executive orders issued when the Indian Income tax Act, 1886 (II of 1886), was in force

*Explanation 1*—When in a case of succession in business or profession, an assessment is made on the successor under sub-section (2) of section 170 the written down value of any asset shall be the amount which would have been taken as its written down value if the assessment had been made directly on the person succeeded to

*Explanation 2*—When any capital asset is transferred by a company to its subsidiary company, then, if the conditions of clause (iv) of section 47 are satisfied, the written down value of the transferred capital asset to the subsidiary company shall be taken to be the same as it would have been if the parent company had continued to hold the capital asset for the purposes of its business

*Explanation 3*—Any allowance in respect of any depreciation carried forward under sub-section (2) of section 32 shall be deemed to be depreciation "actually allowed"

**44 Insurance business**—Notwithstanding anything to the contrary contained in the provisions of this Act relating to the computation of income

**Div 2** chargeable under the head "Interest on securities", "Income from house  
**Ss** property", "Capital gains" or "Income from other sources", or in section  
**44-49** 199 or in sections 28 to 43, the profits and gains of any business of insurance, including any such business carried on by a mutual insurance company or by a co operative society, shall be computed in accordance with the rules contained in the First Schedule

### *E —Capital gains*

**45 Capital gains**—Any profits or gains arising from the transfer of a capital asset effected in the previous year shall, save as otherwise provided in sections 53 and 54, be chargeable to income tax under the head "Capital gains", and shall be deemed to be the income of the previous year in which the transfer took place

**46 Capital gains on distribution of assets by companies in liquidation**—  
 (1) Notwithstanding anything contained in section 45, where the assets of a company are distributed to its shareholders on its liquidation, such distribution shall not be regarded as a transfer by the company for the purposes of section 45

(2) Where a shareholder on the liquidation of a company receives any money or other assets from the company, he shall be chargeable to income tax under the head "Capital gains", in respect of the money so received or the market value of the other assets on the date of distribution, as reduced by the amount assessed as dividend within the meaning of sub clause (c) of clause (22) of section 2 and the sum so arrived at shall be deemed to be the full value of the consideration for the purposes of section 48

**47 Transactions not regarded as transfer**—Nothing contained in section 45 shall apply to the following transfers—

- (i) any distribution of capital assets on the total or partial partition of a Hindu undivided family,
- (ii) any distribution of capital assets on the dissolution of a firm, body of individuals or other association of persons,
- (iii) any transfer of a capital asset under a gift or will or an irrevocable trust,
- (iv) any transfer of a capital asset by a company to its subsidiary company, if—
  - (a) the parent company or its nominees hold the whole of the share capital of the subsidiary company, and
  - (b) the subsidiary company is an Indian company

**48 Mode of computation and deductions**—The income chargeable under the head "Capital gains" shall be computed by deducting from the full value of the consideration received or accruing as a result of the transfer of the capital asset the following amounts, namely—

- (i) expenditure incurred wholly and exclusively in connection with such transfer,
- (ii) the cost of acquisition of the capital asset and the cost of any improvement thereto

**49 Cost with reference to certain modes of acquisition**—Where the capital asset became the property of the assessee—

- (i) on any distribution of assets on the total or partial partition of a Hindu undivided family,

- (ii) under a gift or will ,
- (iii) (a) by succession, inheritance or devolution, or
  - (b) on any distribution of assets on the dissolution of a firm, body of individuals or other association of persons, or
  - (c) on any distribution of assets on the liquidation of a company, or
  - (d) under a transfer to a revocable or an irrevocable trust, or
  - (e) under any such transfer as is referred to in clause (iv) of section 47,

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the cost of acquisition of the asset shall be deemed to be the cost for which the previous owner of the property acquired it, as increased by the cost of any improvement of the assets incurred or borne by the previous owner or the assessee, as the case may be

**50. Special provision for computing cost of acquisition in the case of depreciable assets** —Where the capital asset is an asset in respect of which a deduction on account of depreciation has been obtained by the assessee in any previous year either under this Act or under the Indian Income tax Act, 1922 (XI of 1922), or any Act repealed by that Act, or under executive orders issued when the Indian Income tax Act, 1886 (II of 1886), was in force, the provisions of sections 48 and 49 shall be subject to the following modifications —

- (1) The written down value, as defined in clause (6) of section 43, of the asset, as adjusted, shall be taken as the cost of acquisition of the asset
- (2) Where under any provision of section 49, read with sub-section (2) of section 55, the fair market value of the asset on the 1st day of January, 1954, is to be taken into account at the option of the assessee, then, the cost of acquisition of the asset shall, at the option of the assessee, be the fair market value of the asset on the said date, as reduced by the amount of depreciation, if any, allowed to the assessee after the said date, and as adjusted

**51. Advance money received** —Where any capital asset was on any previous occasion the subject of negotiations for its transfer, any advance or other money received and retained by the assessee in respect of such negotiations shall be deducted from the cost for which the asset was acquired or the written down value or the fair market value, as the case may be, in computing the cost of acquisition

**52. Consideration for transfer in cases of under-statement** —Where the person who acquires a capital asset from an assessee is directly or indirectly connected with the assessee and the Income-tax Officer has reason to believe that the transfer was effected with the object of avoidance or reduction of the liability of the assessee under section 45, the full value of the consideration for the transfer shall, with the previous approval of the Inspecting Assistant Commissioner, be taken to be the fair market value of the capital asset on the date of the transfer

**53. Capital gains exempt from tax** —Notwithstanding anything contained in section 45, where a capital gain arises from the transfer of one or more capital assets, being buildings or lands appurtenant thereto, the income of which is chargeable under the head "Income from house property", and the full aggregate value of the consideration for which the transfer is made does not exceed twenty-five thousand rupees, the capital gain shall not be included in the total income of the assessee

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Provided that this section shall not apply in any case where the aggregate of the fair market values of all capital assets, being buildings or lands appurtenant thereto the income of which is chargeable under the head "Income from house property" owned by the assessee immediately before the transfer aforesaid is made, exceeds the sum of rupees fifty thousand

**54 Profit on sale of property used for residences**—Where a capital gain arises from the transfer of a capital asset to which the provisions of section 53 are not applicable, being buildings or lands appurtenant thereto the income of which is chargeable under the head "Income from house property", which in the two years immediately preceding the date on which the transfer took place, was being used by the assessee or a parent of his mainly for the purposes of his own or the parent's own residence, and the assessee has within a period of one year before or after that date purchased, or has within a period of two years after that date constructed, a house property for the purposes of his own residence, then, instead of the capital gain being charged to income-tax as income of the previous year in which the transfer took place, it shall be dealt with in accordance with the following provisions of this section, that is to say,—

- (i) if the amount of the capital gain is greater than the cost of the new asset, the difference between the amount of the capital gain and the cost of the new asset shall be charged under section 45 as the income of the previous year, and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of three years of its purchase or construction, as the case may be, the cost shall be nil, or
- (ii) if the amount of the capital gain is equal to or less than the cost of the new asset, the capital gain shall not be charged under section 45, and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of three years of its purchase or construction, as the case may be, the cost shall be reduced by the amount of the capital gain

**55 Meaning of "adjusted", "cost of improvement" and "cost of acquisition"**—(1) For the purposes of sections 48, 49 and 50,—

- (a) "adjusted", in relation to written down value or fair market value, means diminished by any loss deducted or increased by any profit assessed, under the provisions of clause (iii) of sub-section (1) of section 32 or sub-section (2) of section 41, as the case may be, the computation for this purpose being made with reference to the period commencing from the 1st day of January, 1954, in cases to which clause (2) of section 50 applies,
- (b) "cost of any improvement", in relation to a capital asset,—
  - (i) where the capital asset became the property of the previous owner or the assessee before the 1st day of January, 1954, and the fair market value of the asset on that day is taken as the cost of acquisition at the option of the assessee, means all expenditure of a capital nature incurred in making any additions or alterations to the capital asset on or after the said date by the previous owner or the assessee, and
  - (ii) in any other case, means all expenditure of a capital nature incurred in making any additions or alterations to the capital asset by the assessee after it became his property, and, where

the capital asset became the property of the assessee by any of the modes specified in section 49, by the previous owner, but does not include any expenditure which is deductible in computing the income chargeable under the head "Interest on securities", "Income from house property", "Profits and gains of business or profession", or "Income from other sources", and the expression "improvement" shall be construed accordingly

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(2) For the purposes of sections 48 and 49, "cost of acquisition", in relation to a capital asset,—

- (i) where the capital asset became the property of the assessee before the 1st day of January, 1954, means the cost of acquisition of the asset to the assessee or the fair market value of the asset on the 1st day of January, 1954, at the option of the assessee,
- (ii) where the capital asset became the property of the assessee by any of the modes specified in section 49, and the capital asset became the property of the previous owner before the 1st day of January, 1954, means the cost of the capital asset to the previous owner or the fair market value of the asset on the 1st day of January, 1954, at the option of the assessee,
- (iii) where the capital asset became the property of the assessee on the distribution of the capital assets of a company on its liquidation and the assessee has been assessed to income tax under the head "Capital gains" in respect of that asset under section 46, means the fair market value of the asset on the date of distribution

(3) Where the cost for which the previous owner acquired the property cannot be ascertained, the cost of acquisition to the previous owner means the fair market value on the date on which the capital asset became the property of the previous owner

#### *F—Income from other sources*

**56 Income from other sources**—(1) Income of every kind which is not to be excluded from the total income under this Act shall be chargeable to income-tax under the head "Income from other sources", if it is not chargeable to income tax under any of the heads specified in section 14, items A to E

(2) In particular, and without prejudice to the generality of the provisions of sub section (1), the following income shall be chargeable to income tax under the head "Income from other sources", namely —

- (i) dividends,
- (ii) income from machinery, plant or furniture belonging to the assessee and let on hire, if the income is not chargeable to income-tax under the head "Profits and gains of business or profession",
- (iii) where an assessee lets on hire machinery, plant or furniture belonging to him and also buildings, and the letting of the buildings is inseparable from the letting of the said machinery, plant or furniture, the income from such letting, if it is not chargeable to income-tax under the head "Profits and gains of business or profession"

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**57 Deductions**—The income chargeable under the head "Income from other sources" shall be computed after making the following deductions, namely—

- (i) in the case of dividends, any reasonable sum paid by way of commission or remuneration to a banker or any other person for the purpose of realising such dividend on behalf of the assessee,
- (ii) in the case of income of the nature referred to in clauses (ii) and (iii) of sub section (2) of section 56, deductions, so far as may be, in accordance with the provisions of sub clause (ii) of clause (a) and clause (c) of section 30, section 31, and sub sections (1) and (2) of section 32 and subject to the provisions of sections 34 and 38,
- (iii) any other expenditure (not being in the nature of capital expenditure) laid out or expended wholly and exclusively for the purpose of making or earning such income

**58 Amounts not deductible**—Notwithstanding anything to the contrary contained in section 57, the following amounts shall not be deductible in computing the income chargeable under the head "Income from other sources", namely—

(a) in the case of any assessee—

- (i) any personal expenses of the assessee,
- (ii) any interest chargeable under this Act which is payable outside India (not being interest on a loan issued for public subscription before the 1st day of April, 1938) on which tax has not been paid or deducted under Chapter XVII-B and in respect of which there is no person in India who may be treated as an agent under section 163,
- (iii) any payment which is chargeable under the head "Salaries", if it is payable outside India, unless tax has been paid thereon or deducted therefrom under Chapter XVII-B,

(b) in the case of a company, any expenditure or allowance of the nature referred to in clause (c) of section 40, notwithstanding that the amount thereof is included in the total income of any person referred to in sub-clause (i) \* [ or in sub clause (iii) ] of clause (c) of section 40

**59 Profits chargeable to tax**—(1) The provisions of sub section (1) of section 41 shall apply, so far as may be, in computing the income of an assessee under section 56, as they apply in computing the income of an assessee under the head "Profits and gains of business or profession"

(2) When any buildings, machinery, plant or furniture to which clauses (ii) and (iii) of sub section (2) of section 56 apply are sold, discarded, demolished or destroyed the provisions of sub section (2) of section 41 shall apply, so far as may be, in computing the income of an assessee under section 56 as they apply in computing the income of an assessee under the head "Profits and gains of business or profession"

*Explanation*—For the purpose of this section, the expression "sold" shall have the same meaning as in sub-section (1) of section 32

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\* Inserted by s 7 of the Finance Act, 1963, with effect from the 1st April, 1963

## CHAPTER V

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## INCOME OF OTHER PERSONS, INCLUDED IN ASSESSEE'S TOTAL INCOME

**60 Transfer of income where there is no transfer of assets**—All income arising to any person by virtue of a transfer whether revocable or not and whether effected before or after the commencement of this Act shall, where there is no transfer of the assets from which the income arises, be chargeable to income-tax as the income of the transferor and shall be included in his total income

**61 Revocable transfer of assets**—All income arising to any person by virtue of a revocable transfer of assets shall be chargeable to income tax as the income of the transferor and shall be included in his total income

**62. Transfer irrevocable for a specified period**—(1) The provisions of section 61 shall not apply to any income arising to any person by virtue of a transfer—

- (i) by way of trust which is not revocable during the lifetime of the beneficiary, and, in the case of any other transfer, which is not revocable during the lifetime of the transferee, or
- (ii) made before the 1st day of April, 1961, which is not revocable for a period exceeding six years

Provided that the transferor derives no direct or indirect benefit from such income in either case

(2) Notwithstanding anything contained in sub-section (1), all income arising to any person by virtue of any such transfer shall be chargeable to income-tax as the income of the transferor as and when the power to revoke the transfer arises, and shall then be included in his total income

**63 "Transfer" and "revocable transfer" defined**—For the purposes of sections 60, 61 and 62 and of this section,—

- (a) a transfer shall be deemed to be revocable if—
  - (i) it contains any provision for the retransfer directly or indirectly of the whole or any part of the income or assets to the transferor, or
  - (ii) it, in any way, gives the transferor a right to reassume power directly or indirectly over the whole or any part of the income or assets,
- (b) "transfer" includes any settlement, trust, covenant, agreement or arrangement

**64 Income of individual to include income of spouse, minor child, etc**—In computing the total income of any individual, there shall be included all such income as arises directly or indirectly—

- (i) to the spouse of such individual from the membership of the spouse in a firm carrying on a business in which such individual is a partner,
- (ii) to a minor child of such individual from the admission of the minor to the benefits of partnership in a firm in which such individual is a partner,
- (iii) subject to the provisions of clause (i) of section 27, to the spouse of such individual from assets transferred directly or indirectly to the spouse by such individual otherwise than for adequate consideration or in connection with an agreement to live apart,



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- (v) subject to the provisions of clause (i) of section 27, to a minor child, not being a married daughter of such individual, from assets transferred directly or indirectly to the minor child by such individual otherwise than for adequate consideration, and
- (i) to any person or association of persons from assets transferred otherwise than for adequate consideration to the person or association of persons by such individual, to the extent to which the income from such assets is for the immediate or deferred benefit of his or her spouse or minor child (not being a married daughter) or both

*Explanation*—For the purpose of clause (i), the individual in computing whose total income the income referred to in that clause is to be included shall be the husband or wife whose total income (excluding the income referred to in that clause) is greater and, for the purpose of clause (ii), where both the parents are members of the firm in which the minor child is a partner, the income of the minor child from the partnership shall be included in the income of that parent whose total income (excluding the income referred to in that clause) is greater, and where any such income is once included in the total income of either spouse or parent, any such income arising in any succeeding year shall not be included in the total income of the other spouse or parent unless the Income tax Officer is satisfied, after giving that spouse or parent an opportunity of being heard, that it is necessary so to do

**65 Liability of person in respect of income included in the income of another person**—Where, by reason of the provisions contained in this Chapter or in clause (i) of section 27, the income from any asset or from membership in a firm of a person other than the assessee is included in the total income of the assessee, the person in whose name such asset stands or who is a member of the firm shall notwithstanding anything to the contrary contained in any other law for the time being in force, be liable, on the service of a notice of demand by the Income tax Officer in this behalf, to pay that portion of the tax levied on the assessee which is attributable to the income so included, and the provisions of Chapter XVII-D shall, so far as may be, apply accordingly

Provided that where any such asset is held jointly by more than one person, they shall be jointly and severally liable to pay the tax which is attributable to the income from the assets so included

## CHAPTER VI

### AGGREGATION OF INCOME AND SET OFF OF CARRY FORWARD OF LOSS

#### *Aggregation of income*

**66 Total income**—In computing the total income of an assessee, there shall be included all income on which no income tax is payable under Chapter VII and any amount in respect of which the assessee is entitled to a deduction from the amount of income-tax on his total income with which he is chargeable for any assessment year in accordance with, and to the extent provided in sections 87 and 88

**67 Method of computing a partner's share in the income of the firm**—(1) In computing the total income of an assessee who is a partner of a firm, viz., the result of the computation of total income of the firm is a

profit or a loss, his share (whether a net profit or a net loss) shall be computed as follows — **Div. 2**  
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- (a) any interest, salary, commission or other remuneration paid to any partner in respect of the previous year shall be deducted from the total income of the firm and the balance ascertained and apportioned among the partners,
- (b) where the amount apportioned to the partner under clause (a) is a profit, any salary, interest, commission or other remuneration paid to the partner by the firm in respect of the previous year shall be added to that amount, and the result shall be treated as the partner's share in the income of the firm,
- (c) where the amount apportioned to the partner under clause (a) is a loss, any salary, interest, commission or other remuneration paid to the partner by the firm in respect of the previous year shall be adjusted against that amount, and the result shall be treated as the partner's share in the income of the firm

(2) The share of a partner in the income or loss of the firm, as computed under sub-section (1) shall, for the purposes of assessment, be apportioned under the various heads of income in the same manner in which the income or loss of the firm has been determined under each head of income

(3) Any interest paid by a partner on capital borrowed by him for the purposes of investment in the firm shall, in computing his income chargeable under the head "Profits and gains of business or profession" in respect of his share in the income of the firm, be deducted from the share

(4) If the share of a partner in the income of a registered firm or a firm treated as registered in accordance with the provisions of clause (b) of section 183, as computed under this section, is a loss, such loss may be set off, or carried forward and set off, in accordance with the provisions of this Chapter

*Explanation* —In this section, "paid" has the same meaning as is assigned to it in clause (2) of section 43

**68 Cash credits** —Where any sum is found credited in the books of an assessee maintained for any previous year, and the assessee offers no explanation about the nature and source thereof or the explanation offered by him is not, in the opinion of the Income-tax Officer, satisfactory, the sum so credited may be charged to income-tax as the income of the assessee of that previous year

**69 Unexplained investments** —Where in the financial year immediately preceding the assessment year the assessee has made investments which are not recorded in the books of account, if any, maintained by him for any source of income, and the assessee offers no explanation about the nature and source of the investments or the explanation offered by him is not, in the opinion of the Income-tax Officer, satisfactory, the value of the investments may be deemed to be the income of the assessee of such financial year

### *Set off, or carry forward and set off*

**\*[70 Set off of loss from one source against income from another source under the same head of income** —(1) Save as otherwise provided in this Act, where the net result for any assessment year in respect of any source falling

\* Substituted by s. 5 of the Finance (No. 2) Act, 1962, with effect from the 1st April, 1962

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under any head of income other than "Capital gains" is a loss, the assessee shall be entitled to have the amount of such loss set off against his income from any other source under the same head

(2) (i) Where the result of the computation made for any assessment year under sections 48 to 55 in respect of any short-term capital asset is a loss, the assessee shall be entitled to have the amount of such loss set off against the income, if any, as arrived at under a similar computation made for the assessment year in respect of any other capital asset

(ii) Where the result of the computation made for any assessment year under sections 48 to 55 in respect of any capital asset other than a short-term capital asset is a loss, the assessee shall be entitled to have the amount of such loss set off against the income, if any, as arrived at under a similar computation made for the assessment year in respect of any other capital asset not being a short-term capital asset

**71 Set off of loss from one head against income from another** —(1) Where in respect of any assessment year the net result of the computation under any head of income other than "Capital gains" is a loss and the assessee has no income under the head "Capital gains", he shall, subject to the provisions of this Chapter, be entitled to have the amount of such loss set off against his income, if any, assessable for that assessment year under any other head

(2) Where in respect of any assessment year the net result of the computation under any head of income other than "Capital gains" is a loss and the assessee has income assessable under the head "Capital gains", such loss may, subject to the provisions of this Chapter, be set off against the income, if any, of the assessee assessable for that assessment year under any other head including income from capital gains relating to short-term capital assets as well as other capital assets or, if the assessee so desires, shall be set off only against his income, if any, assessable under any head of income other than "Capital gains" ]

**72 Carry forward and set off of business losses** —\*(1) Where for any assessment year, the net result of the computation under the head "Profits and gains of business or profession" is a loss to the assessee, not being a loss sustained in a speculation business, and such loss cannot be or is not wholly set off against income under any head of income in accordance with the provisions of section 71, so much of the loss as has not been so set off or, where the assessee has income only under the head "Capital gains" and has exercised the option under sub-section (2) of that section or where he has no income under any other head, the whole loss shall, subject to the other provisions of this Chapter, be carried forward to the following assessment year, and —

- (i) it shall be set off against the profits and gains, if any, of any business or profession carried on by him and assessable for that assessment year

Provided that the business or profession for which the loss was originally computed continued to be carried on by him in the previous year relevant for that assessment year, and

- (ii) if the loss cannot be wholly so set off, the amount of loss not so set off shall be carried forward to the following assessment year and so on ]

\* Substituted by s 6 of the Finance (No 2) Act, 1962, with effect from the 1st April, 1962

(2) Where any allowance or part thereof is, under sub-section (2) of section 32 or sub-section (4) of section 35, to be carried forward, effect shall first be given to the provisions of this section

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(3) No loss shall be carried forward under this section for more than eight assessment years immediately succeeding the assessment year for which the loss was first computed

**73 Losses in speculation business**—(1) Any loss, computed in respect of a speculation business carried on by the assessee, shall not be set off except against profits and gains, if any, of another speculation business

(2) Where for any assessment year any loss computed in respect of a speculation business has not been wholly set off under sub-section (1), so much of the loss as is not so set off or the whole loss where the assessee had no income from any other speculation business, shall, subject to the other provisions of this Chapter, be carried forward to the following assessment year, and—

- (i) it shall be set off against the profits and gains, if any, of any speculation business carried on by him assessable for that assessment year, and
- (ii) if the loss cannot be wholly so set off, the amount of loss not so set off shall be carried forward to the following assessment year and so on

(3) In respect of allowance on account of depreciation or capital expenditure on scientific research, the provisions of sub-section (2) of section 72 shall apply in relation to speculation business as they apply in relation to any other business

(4) No loss shall be carried forward under this section for more than eight assessment years immediately succeeding the assessment year for which the loss was first computed

**\*[74 Losses under the head "Capital gains"**—(1) (a) Where in respect of any assessment year, the net result of the computation under the head "Capital gains" is a loss, such loss shall, subject to the other provisions of this Chapter, be dealt with as follows —

- (i) such portion of the net loss as relates to short-term capital assets shall be carried forward to the following assessment year and set off against the capital gains, if any, relating to short term capital assets assessable for that assessment year and, if it cannot be so set off, the amount thereof not so set off shall be carried forward to the following assessment year and so on,
- (ii) such portion of the net loss as relates to capital assets other than short-term capital assets shall be carried forward to the following assessment year and set off against the capital gains, if any, relating to capital assets other than short-term capital assets assessable for that assessment year and, if it cannot be so set off, the amount thereof not so set off shall be carried forward to the following assessment year and so on

Provided that where, in the case of any assessee not being a company, the net loss computed in respect of such capital assets for any assessment year does not exceed five thousand rupees, it shall not be carried forward under this section

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\* Substituted by s 7 of the Finance (No 2) Act, 1962, with effect from the 1st April, 1962

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(b) Notwithstanding anything contained in the Indian Income tax Act, 1922 (XI of 1922), any loss computed under the head "Capital gains" in respect of the assessment year commencing on the 1st day of April, 1961, or any earlier assessment year which is carried forward in accordance with the provisions of sub section (2B) of section 24 of that Act, shall be dealt with in the assessment year commencing on the 1st day of April, 1962, or any subsequent assessment year as follows —

(i) in so far as it relates to short term capital assets, it shall be carried forward and set off in accordance with the provisions of sub clause (i) of clause (a) and sub section (2), and

(ii) in so far as it relates to capital assets other than short term capital assets, it shall be carried forward and set off in accordance with the provisions of sub clause (ii) of clause (a) and sub section (2)

(2) (a) No loss referred to in sub clause (i) of clause (a) of sub section (1) or sub clause (i) or sub clause (ii) of clause (b) of that sub section shall be carried forward under this section for more than eight assessment years immediately succeeding the assessment year for which the loss was first computed under this Act or, as the case may be, the Indian Income tax Act, 1922 (XI of 1922)

(b) No loss referred to in sub clause (ii) of clause (a) of sub section (1) shall be carried forward under this section for more than four assessment years immediately succeeding the assessment year for which the loss was first computed under this Act ]

**75 Losses of registered firms** —(1) Where the assessee is a registered firm, any loss which cannot be set off against any other income of the firm shall be apportioned between the partners of the firm, and they alone shall be entitled to have the amount of the loss set off and carried forward for set off under sections 70, 71, 72, 73 and 74

(2) Nothing contained in sub section (1) of section 72, sub section (2) of section 73 or sub section (1) of section 74 shall entitle any assessee, being a registered firm, to have its loss carried forward and set off under the provisions of the aforesaid sections

**76 Losses of unregistered firms assessed as registered firms** —In the case of an unregistered firm assessed under the provisions of clause (b) of section 183 in respect of any assessment year, its losses for that assessment year shall be dealt with as if it were a registered firm

**77 Losses of unregistered firms or their partners** —(1) Where the assessee is an unregistered firm which has not been assessed as a registered firm under the provisions of clause (b) of section 183, any loss of the firm shall be set off or carried forward and set off only against the income of the firm

(2) Where the assessee is a partner of an unregistered firm which has not been assessed as a registered firm under the provisions of clause (b) of section 183 and his share in the income of the firm is a loss, then, whether the firm has already been assessed or not—

(a) such loss shall not be set off under the provisions of section 70, section 71, or sub-section (1) of section 73,

(b) nothing contained in sub section (1) of section 72 or sub section (2) of section 73 or sub-section (1) of section 74 shall entitle the assessee to have such loss carried forward and set off against his own income

**78. Carry forward and set off of losses in case of change in constitution of firm or on succession.**—(1) Where a change has occurred in the constitution of a firm, nothing in this Chapter shall entitle the firm to have carried forward and set off so much of the loss proportionate to the share of a retired or deceased partner computed in accordance with section 67 as exceeds his share of profits, if any, of the previous year in the firm, or entitle any partner to the benefit of any portion of the said loss which is not apportionable to him under section 67

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(2) Where any person carrying on any business or profession has been succeeded in such capacity by another person otherwise than by inheritance, nothing in this Chapter shall entitle any person other than the person incurring the loss to have it carried forward and set off against his income

**79. Carry forward and set off of losses in the case of certain companies**—Notwithstanding anything contained in this Chapter, where a change in shareholding has taken place in a previous year in the case of a company, not being a company in which the public are substantially interested, no loss incurred in any year prior to the previous year shall be carried forward and set off against the income of the previous year unless—

- (a) on the last day of the previous year the shares of the company carrying not less than fifty one per cent of the voting power were beneficially held by persons who beneficially held shares of the company carrying not less than fifty-one per cent of the voting power on the last day of the year or years in which the loss was incurred, or
- (b) the Income-tax Officer is satisfied that the change in the shareholding was not effected with a view to avoiding or reducing any liability to tax

**80 Submission of return for losses**—Notwithstanding anything contained in this Chapter, no loss which has not been determined in pursuance of a return filed under section 139, shall be carried forward and set off under sub section (1) of section 72 or sub section (2) of section 73 or sub-section (1) of section 74

## CHAPTER VII

### INCOMES FORMING PART OF TOTAL INCOME ON WHICH NO INCOME TAX IS PAYABLE

**81 Income of co-operative societies**—Income tax shall not be payable by a co operative society—

- (i) in respect of the profits and gains of business carried on by it, if it is—
  - (a) a society engaged in carrying on the business of banking or providing credit facilities to its members, or
  - (b) a society engaged in a cottage industry, or
  - (c) a society engaged in the marketing of the agricultural produce of its members, or
  - (d) a society engaged in the purchase of agricultural implements, seeds, livestock or other articles intended for agriculture for the purpose of supplying them to its members, or

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- (e) a society engaged in the processing without the aid of power of the agricultural produce of its members, or
- (f) a primary society engaged in supplying milk raised by its members to a federal milk co operative society

Provided that, in the case of a co operative society which is also engaged in activities other than those mentioned in this clause, nothing contained herein shall apply to that part of its profits and gains as is attributable to such activities and as exceeds fifteen thousand rupees,

- (ii) in respect of so much of the profits and gains of business carried on by it as does not exceed fifteen thousand rupees, if it is a co operative society other than a co operative society referred to in clause (i),
- (iii) in respect of any interest and dividends derived from its investments with any other co-operative society,
- (iv) in respect of any income derived from the letting of godowns or warehouses for storage, processing or facilitating the marketing of commodities,
- (v) in respect of any interest on securities chargeable under section 18 or any income from property chargeable under section 22, where the total income of the co operative society does not exceed twenty thousand rupees and the society is not a housing society or an urban consumer's society or a society carrying on transport business or a society engaged in the performance of any manufacturing operations with the aid of power

Provided that nothing contained in this section shall apply to a co operative society carrying on insurance business in respect of the profits and gains of that business computed in accordance with section 44

*Explanation*—For the purposes of this section, “an urban consumer's co-operative society” means a society for the benefit of the consumers within the limits of a municipal corporation, municipality, municipal committee, notified area committee, town area or cantonment

**82 Dividends from co-operative society**—Income-tax shall not be payable by an assessee, who is a member of a co operative society, in respect of any dividends received by him from the society

**83 Income of marketing society**—Income-tax shall not be payable by an assessee, which is an authority constituted under any law for the time being in force for the marketing of commodities, in respect of any income derived from the letting of godowns or warehouses for storage, processing or facilitating the marketing of commodities

**84 Income of newly established industrial undertakings or hotels**—  
(R 19) (1) Save as otherwise hereinafter provided, income-tax shall not be payable by an assessee on so much of the profits or gains derived from any industrial undertaking or hotel to which this section applies as do not exceed six per cent per annum on the capital employed in the undertaking or hotel, computed in the prescribed manner

(2) This section applies to any industrial undertaking which fulfils all the following conditions, namely —

- (i) it is not formed by the splitting up, or the reconstruction, of a business already in existence,
- (ii) it is not formed by the transfer to a new business of a building, machinery or plant previously used for any purpose,

(iii) it has begun or begins to manufacture or produce articles in any part of India at any time within a period of eighteen years from the 1st day of April, 1948, or such further period as the Central Government may, by notification in the Official Gazette, specify with reference to any particular industrial undertaking, Div 2  
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(iv) it employs ten or more workers in a manufacturing process carried on with the aid of power, or employs twenty or more workers in a manufacturing process carried on without the aid of power

(3) This section applies to any hotel which—

- (a) starts functioning on or after the 1st day of April, 1961, and is not formed by the splitting up, or the reconstruction, of business already in existence or by the transfer to a new business of building, machinery or plant previously used for any purpose,
- (b) is owned and run by a company registered in India with a paid-up capital of not less than five hundred thousand rupees,
- (c) is run in premises which are owned by the company,
- (d) has such number and types of guest rooms and provides such amenities as may be prescribed, having regard to the population and the tourist importance of the place in which the hotel is located, and (R 18)
- (e) is for the time being approved for the purposes of this sub-section by the Central Government

*Explanation*—Where any building, machinery or plant or any part thereof previously used for any purpose is transferred to a new business and the total value of the building, machinery or plant or part so transferred does not exceed twenty per cent of the total value of the building, machinery or plant used in the business, then, for the purposes of clause (ii) of sub section (2) and clause (a) of sub section (3), the industrial undertaking or hotel to which the transfer has been made shall be deemed to have complied with the condition specified therein and the total value of the building, machinery or plant or part so transferred shall not be taken into account in computing the capital employed in the industrial undertaking or hotel

(4) The Central Government may, after making such inquiry as it may think fit, direct, by notification in the Official Gazette, that the exemption conferred by this section shall not apply to any class of industrial undertakings with effect from such date as it may specify in the notification

(5) The profits or gains of an industrial undertaking or hotel to which this section applies shall be computed in accordance with the provisions contained in Chapter IV-D

(6) Nothing in this section shall affect the application of the provisions contained in Chapter XI-D in relation to the profits or gains of an industrial undertaking or hotel to which this section applies

(7) The provisions of this section shall, in relation to an industrial undertaking, apply to the assessment—

- (i) for the assessment year relevant to the previous year in which the undertaking begins to manufacture or produce articles, and
- (ii) where the assessee is a co operative society, for the six assessment years immediately succeeding, and where the assessee is any other person, for the four assessment years immediately succeeding



**Div 2** (8) The provisions of this section shall, in relation to a hotel, apply to the  
**Ss** assessment for the financial year next following the previous year in which  
**84 87** the hotel starts functioning and for the four assessments immediately succeeding

**(R 20)** **85 Dividend from new industrial undertaking or hotel**—Subject to any rules that may be made by the Board in this behalf, income-tax shall not be payable by a shareholder in respect of so much of any dividend paid or deemed to be paid to him by an industrial undertaking or a hotel to which section 84 applies as is attributable to that part of the profits or gains on which income tax is not payable under section 84 —

**86 Other incomes**—Income-tax shall not be payable by an assessee in respect of the following—

- (i) the interest due on any security of the Central Government issued or declared to be income-tax free,
- (ii) the interest due on any security of a State Government issued income tax free, the income-tax whereon is payable by the State Government,
- (iii) if the assessee is a partner of an unregistered firm, any portion of the assessee's share in the profits and gains of the firm computed in the manner laid down in section 67 on which income-tax has already been paid by the firm,
- (iv) if the assessee is a partner of a registered firm, the amount which represents the difference between—
  - (a) the assessee's share in the total income of the firm, and
  - (b) his share in such total income as reduced by the income tax, if any, payable by the firm,
 the shares in either case being computed in the manner laid down in section 67, and
- (v) if the assessee is a member of an association of persons, or a body of individuals other than a Hindu undivided family, a company or a firm, any portion of the amount which he is entitled to receive from the association or body on which income tax has already been paid by the association or body

## CHAPTER VIII

### REBATES AND RELIEFS

#### *A —Rebate of income tax*

**87 Rebate on life insurance premia, annuities and contributions to provident funds, etc**—(1) Subject to the provisions of this section, the assessee shall be entitled to a deduction, from the amount of income-tax on his total income with which he is chargeable for any assessment year, of an amount equal to the income-tax calculated at the average rate of income-tax on the following sums, namely —

- (a) where the assessee is an individual, any sums paid in the previous year by the assessee out of his income chargeable to tax—
  - (i) to effect or to keep in force an insurance on the life of the assessee or on the life of the wife or husband of the assessee, or

- (ii) to effect or to keep in force a contract for a deferred annuity on the life of the assessee or on the life of the wife or husband of the assessee, or
- (iii) as a contribution to any provident fund to which the Provident Funds Act, 1925 (XIX of 1925), applies,
- (b) where the assessee is a Hindu undivided family, any sums paid in the previous year by the assessee out of its income chargeable to tax, to effect or to keep in force an insurance on the life of any male member of the family or of the wife of any such member,
- (c) any sum deducted in the previous year from the salary payable by or on behalf of the Government to any individual, being a sum deducted in accordance with the conditions of his service, for the purpose of securing to him a deferred annuity or making provision for his wife or children, in so far as the sum so deducted does not exceed one fifth of the salary,
- (d) if the assessee is an employee participating in a recognised provident fund, his own contributions to his individual account in the fund in the previous year, to the extent provided in rule 7 of Part A of the Fourth Schedule,
- (e) if the assessee is an employee participating in an approved superannuation fund, any sum paid in the previous year by him by way of contribution towards the superannuation fund,
- \*[(f) where the assessee is an individual, any sums deposited, in the previous year by the assessee out of his income chargeable to tax, in a ten-year account or a fifteen-year account under the Post Office Savings Bank (Cumulative Time Deposits) Rules, 1959, as amended from time to time ]

(2) The provisions of clauses (a) and (b) of sub section (1) shall apply only to so much of any premium or other payment made on a policy other than a contract for a deferred annuity as is not in excess of ten per cent of the actual capital sum assured

*Explanation*—In calculating any such capital sum, no account shall be taken—

- (i) of the value of any premiums agreed to be returned, or
- (ii) of any benefit by way of bonus or otherwise over and above the sum actually assured, which is to be or may be received under the policy by any person

(3) The aggregate of the sums in respect of which a deduction of income tax is allowed under sub section (1) shall not exceed—

- (i) in the case of an individual being an author, playwright, artist, musician or actor, such percentage of his total income or such amount as may be prescribed, (R 21)
- (ii) in the case of any other individual, twenty five per cent of the total income or ₹[ten thousand rupees], whichever is less,
- (iii) in the case of a Hindu undivided family, twenty five per cent of its total income or ₹[twenty thousand rupees], whichever is less

\* Inserted by s 8 of the Finance (No 2) Act, 1962, with effect from the 1st April, 1962

† Substituted for "eight thousand rupees", *ibid*, with effect from the 1st April, 1962

‡ Substituted for "sixteen thousand rupees", *ibid*, with effect from the 1st April, 1962

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**88 Donations for charitable purposes, etc** —\*[(1) Subject to the provisions of this section, the assessee shall be entitled to a deduction from the amount of income tax on his total income with which he is chargeable for any assessment year of an amount equal to the income-tax calculated at the average rate of income-tax on any sums paid by him in the previous year—

- (i) as donations to the National Defence Fund set up by the Central Government, or
- (ii) as donations to any other fund or any institution to which this section applies, or
- (iii) as donations to Government or to any local authority made on or after the 1st April, 1960, to be utilised for any charitable purpose]

(2) No deduction shall be made under sub-section (1) if the aggregate of the sums paid as aforesaid by the assessee is less than two hundred and fifty rupees

(3) No deduction shall be made under sub section (1) in respect of any sums paid in excess of seven and a half per cent of the assessee's total income as reduced by any portion thereof on which income-tax is not payable under any provision of this Act and by any amount in respect of which a deduction of income-tax has been granted under any other provision of this Chapter, or one hundred and fifty thousand rupees, whichever is less

†[Provided that in respect of any such sums paid during any previous year relevant to the assessment year commencing on the 1st day of April, 1963, or any subsequent assessment year, this sub section shall have effect as if for the words "seven and a half per cent" and the words "one hundred and fifty thousand rupees", the words "ten per cent" and "two hundred thousand rupees" has been, respectively, substituted]

‡[Provided further that where any sum paid during the previous year includes any donation to the National Defence Fund set up by the Central Government the amount covered by that donation shall be excluded in calculating the limits specified in this sub-section]

(4) The amount of income-tax deductible under this section, together with the amount of super-tax deductible under section 100 shall not in any case exceed half the aggregate of the donations in respect of which the deduction is allowed under this section

(5) This section applies §[to donations to any institution or fund referred to in clause (ii) of sub section (1), only if it is established in India for a charitable purpose and if it] fulfils the following conditions, namely —

- (i) if the institution or fund derives any income, such income would not be liable to inclusion in its total income under the provisions of sections 11 and 12 or clause (22) of section 10,
- (ii) the instrument under which the institution or fund is constituted does not, or the rules governing the institution or the fund do not, contain any provision for the transfer or application at any time of the whole or any part of the income or assets of the

\* Substituted by s 3 of the Taxation Laws (Amendment) Act, 1962 (54 of 1962)

† Inserted by s 9 of the Finance (No 2) Act, 1962, with effect from the 1st April, 1962

‡ Inserted by s 3 of the Taxation Laws (Amendment) Act, 1962 (54 of 1962)

§ Substituted for "only to donations to an institution or fund established in India for a charitable purpose which" by s 3 of the Taxation Laws (Amendment) Act, 1962 (54 of 1962)

institution or fund for any purpose other than a charitable purpose ,

(iii) the institution or fund is not expressed to be for the benefit of any particular religious community or caste ,

(iv) the institution or fund maintains regular accounts of its receipts and expenditure , and

(v) the institution or fund is either constituted as a public charitable trust or is registered under the Societies Registration Act, 1860 (XXI of 1860), or under any law corresponding to that Act in force in any part of India or under section 25 of the Companies Act, 1956 (I of 1956), or is a university established by law, or is any other educational institution recognised by the Government or by a university established by law, or affiliated to any university established by law or is an institution financed wholly or in part by the Government or a local authority

*Explanation 1*—An institution or fund established for the benefit of Scheduled Castes, backward classes, Scheduled Tribes or of women and children shall not be deemed to be an institution or fund expressed to be for the benefit of a religious community or caste within the meaning of clause (iii) of this sub section

*Explanation 2*—For the removal of doubts, it is hereby declared that a deduction to which the assessee is entitled in respect of any donation made to an institution or fund to which sub section (5) applies shall not be affected merely by reason of the fact that subsequent to the donation any part of the income of the institution or fund has become chargeable to tax due to non compliance with any of the provisions of section 11

(6) Notwithstanding anything contained in sub section (5), this section shall apply to donations given for the renovation or repair of any temple, mosque, gurdwara, church or any other place which is notified by the Central Government in the Official Gazette to be of historic, archaeological or artistic importance

### *B —Relief for income-tax*

89 Relief when salary, etc , is paid in arrears or in advance —(1) Where, by reason of any portion of an assessee's salary being paid in arrears or in advance or by reason of his having received in any one financial year salary for more than twelve months or a payment which under the provisions of clause (3) of section 17 is a profit in lieu of salary, his income is assessed at a rate higher than that at which it would otherwise have been assessed, the Commissioner may, on an application made in this behalf by the assessee, grant such relief as he considers appropriate

(2) Where, by reason of any portion of income from interest on securities being received in arrears, an assessee's total income is assessed at a rate higher than that at which it would otherwise have been assessed, the Commissioner may, on an application made in this behalf by the assessee, grant such relief as he considers appropriate

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## CHAPTER IX

## DOUBLE TAXATION RELIEF

**90 Agreement with foreign countries**—The Central Government may enter into an agreement—

- (a) with the Government of any country outside India for the granting of relief in respect of income on which have been paid both income tax (including super tax) under this Act and income tax in that country or
- (b) with the Government of any country outside India for the avoidance of double taxation of income under this Act and under the corresponding law in force in that country,

and may, by notification in the Official Gazette, make such provisions as may be necessary for implementing the agreement

**91 Countries with which no agreement exists**—(1) If any person who is resident in India in any previous year proves that, in respect of his income which accrued or arose during that previous year outside India (and which is not deemed to accrue or arise in India), he has paid in any country with which there is no agreement under section 90 for the relief or avoidance of double taxation, income tax, by deduction or otherwise, under the law in force in that country, he shall be entitled to the deduction from the Indian income tax payable by him of a sum calculated on such doubly taxed income at the Indian rate of tax or the rate of tax of the said country, whichever is the lower, or at the Indian rate of tax if both the rates are equal

(2) If any person who is resident in India in any previous year proves that in respect of his income which accrued or arose to him during that previous year in Pakistan he has paid in that country, by deduction or otherwise, tax payable to the Government under any law for the time being in force in that country relating to taxation of agricultural income, he shall be entitled to a deduction from the Indian income tax payable by him—

- (a) of the amount of the tax paid in Pakistan under any law aforesaid on such income which is liable to tax under this Act also, or
- (b) of a sum calculated on that income at the Indian rate of tax, whichever is less

(3) If any non-resident person is assessed on his share in the income of a registered firm assessed as resident in India in any previous year and such share includes any income accruing or arising outside India during that previous year (and which is not deemed to accrue or arise in India) in a country with which there is no agreement under section 90 for the relief or avoidance of double taxation and he proves that he has paid income-tax by deduction or otherwise under the law in force in that country in respect of the income so included he shall be entitled to a deduction from the Indian income tax payable by him of a sum calculated on such doubly taxed income so included at the Indian rate of tax or the rate of tax of the said country, whichever is the lower, or at the Indian rate of tax if both the rates are equal

*Explanation*—In this section,—

- (i) the expression "Indian income tax" means income-tax and super-tax charged in accordance with the provisions of this Act,
- (ii) the expression "Indian rate of tax" means the rate determined by dividing the amount of Indian income tax after deduction of

any relief due under the provisions of this Act but before deduction of any relief due under this section, by the total income, Div 2  
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- (iii) the expression "rate of tax of the said country" means income-tax and super-tax actually paid in the said country in accordance with the corresponding laws in force in the said country after deduction of all relief due, but before deduction of any relief due in the said country in respect of double taxation, divided by the whole amount of the income as assessed in the said country,
- (iv) the expression "income-tax" in relation to any country includes any excess profits tax or business profits tax charged on the profits by the Government of any part of that country or a local authority in that country

## CHAPTER X

### SPECIAL PROVISIONS RELATING TO AVOIDANCE OF TAX

**92 Income from transactions with non-residents, how computed in certain cases.**—Where a business is carried on between a resident and a non-resident and it appears to the Income-tax Officer that, owing to the close connection between them, the course of business is so arranged that the business transacted between them produces to the resident either no profits or less than the ordinary profits which might be expected to arise in that business, the Income-tax Officer shall determine the amount of profits which may reasonably be deemed to have been derived therefrom and include such amount in the total income of the resident (Rr. 10,  
11)

**93 Avoidance of income-tax by transactions resulting in transfer of income to non-residents**—(1) Where there is a transfer of assets by virtue or in consequence whereof, either alone or in conjunction with associated operations, any income becomes payable to a non-resident, the following provisions shall apply—

- (a) where any person has, by means of any such transfer, either alone or in conjunction with associated operations, acquired any rights by virtue of which he has, within the meaning of this section, power to enjoy, whether forthwith or in the future, any income of a non-resident person which, if it were income of the first-mentioned person, would be chargeable to income-tax, that income shall, whether it would or would not have been chargeable to income-tax apart from the provisions of this section, be deemed to be income of the first-mentioned person for all the purposes of this Act,
- (b) where, whether before or after any such transfer, any such first-mentioned person receives or is entitled to receive any capital sum the payment whereof is in any way connected with the transfer or any associated operations, then any income which, by virtue or in consequence of the transfer, either alone or in conjunction with associated operations, has become the income of a non-resident shall, whether it would or would not have been chargeable to income-tax apart from the provisions of this section, be deemed to be the income of the first-mentioned person for all the purposes of this Act

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*Explanation* —The provisions of this sub section shall apply also in relation to transfers of assets and associated operations carried out before the commencement of this Act

(2) Where any person has been charged to income tax on any income deemed to be his under the provisions of this section and that income is subsequently received by him, whether as income or in any other form, it shall not again be deemed to form part of his income for the purposes of this Act

(3) The provisions of this section shall not apply if the first-mentioned person in sub-section (1) shows to the satisfaction of the Income-tax Officer that—

- (a) neither the transfer nor any associated operation had for its purpose or for one of its purposes the avoidance of liability to taxation, or
- (b) the transfer and all associated operations were *bona fide* commercial transactions and were not designed for the purpose of avoiding liability to taxation

*Explanation* —For the purposes of this section,—

- (a) references to assets representing any assets, income or accumulations of income include references to shares in or obligation of any company to which, or obligation of any other person to whom, those assets, that income or those accumulations are or have been transferred,
- (b) any body corporate incorporated outside India shall be treated as if it were a non-resident,
- (c) a person shall be deemed to have power to enjoy the income of a non-resident if—
  - (i) the income is in fact so dealt with by any person as to be calculated at some point of time and, whether in the form of income or not, to enure for the benefit of the first-mentioned person in sub section (1), or
  - (ii) the receipt or accrual of the income operates to increase the value to such first-mentioned person of any assets held by him or for his benefit, or
  - (iii) such first-mentioned person receives or is entitled to receive at any time any benefit provided or to be provided out of that income or out of moneys which are or will be available for the purpose by reason of the effect or successive effects of the associated operations on that income and assets which represent that income, or
  - (iv) such first-mentioned person has power by means of the exercise of any power of appointment or power of revocation or otherwise to obtain for himself, whether with or without the consent of any other person, the beneficial enjoyment of the income, or
  - (v) such first-mentioned person is able, in any manner whatsoever and whether directly or indirectly, to control the application of the income,
- (d) in determining whether a person has power to enjoy income, regard shall be had to the substantial result and effect of the transfer and any associated operations, and all benefits which may at any time accrue to such person as a result of the transfer and any

associated operations shall be taken into account irrespective of the nature or form of the benefits

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(4) (a) "Assets" includes property or rights of any kind and "transfer" in relation to rights includes the creation of those rights,

(b) "associated operation", in relation to any transfer, means an operation of any kind effected by any person in relation to—

(i) any of the assets transferred, or

(ii) any assets representing, whether directly or indirectly, any of the assets transferred, or

(iii) the income arising from any such assets, or

(iv) any assets representing, whether directly or indirectly, the accumulations of income arising from any such assets,

(c) "benefit" includes a payment of any kind,

(d) "capital sum" means—

(i) any sum paid or payable by way of a loan or repayment of a loan, and

(ii) any other sum paid or payable otherwise than as income, being a sum which is not paid or payable for full consideration in money or money's worth

**94 Avoidance of tax by certain transactions in securities**—(1) Where the owner of any securities (in this sub section and in sub section (2) referred to as "the owner") sells or transfers those securities, and buys back or re-acquires the securities, then, if the result of the transaction is that any interest becoming payable in respect of the securities is receivable otherwise than by the owner, the interest payable as aforesaid shall, whether it would or would not have been chargeable to income-tax apart from the provisions of this sub-section, be deemed, for all the purposes of this Act, to be income of the owner and not to be the income of any other person

*Explanation*—The references in this sub-section to buying back or re-acquiring the securities shall be deemed to include references to buying or acquiring similar securities, so however, that where similar securities are bought or acquired, the owner shall be under no greater liability to income-tax than he would have been under if the original securities had been bought back or re-acquired

(2) Where any person has had at any time during any previous year any beneficial interest in any securities, and the result of any transaction relating to such securities or the income thereof is that, in respect of such securities within such year, either no income is received by him or the income received by him is less than the sum to which the income would have amounted if the income from such securities had accrued from day to day and been apportioned accordingly, then the income from such securities for such year shall be deemed to be the income of such person

(3) The provisions of sub-section (1) or sub section (2) shall not apply if the owner, or the person who has had a beneficial interest in the securities, as the case may be, proves to the satisfaction of the Income-tax Officer—

(a) that there has been no avoidance of income tax, or

(b) that the avoidance of income-tax was exceptional and not systematic and that there was not in his case in any of the three preceding years any avoidance of income-tax by a transaction of the nature referred to in sub-section (1) or sub-section (2)



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(4) Where any person carrying on a business which consists wholly or partly in dealing in securities buys or acquires any securities and sells back or re transfers the securities, then, if the result of the transaction is that interest becoming payable in respect of the securities is receivable by him but is not deemed to be his income by reason of the provisions contained in sub section (1), no account shall be taken of the transaction in computing for any of the purposes of this Act the profits arising from or loss sustained in the business

(5) Sub-section (4) shall have effect, subject to any necessary modifications, as if references to selling back or re-transferring the securities included references to selling or transferring similar securities

(6) The Income-tax Officer may, by notice in writing, require any person to furnish him within such time as he may direct (not being less than twenty-eight days), in respect of all securities of which such person was the owner or in which he had a beneficial interest at any time during the period specified in the notice, such particulars as he considers necessary for the purposes of this section and for the purpose of discovering whether income-tax has been borne in respect of the interest on all those securities

*Explanation* —For the purposes of this section,—

- (a) "interest" includes a dividend,
- (b) "securities" includes stocks and shares,
- (c) securities shall be deemed to be similar if they entitle their holders to the same rights against the same persons as to capital and interest and the same remedies for the enforcement of those rights, notwithstanding any difference in the total nominal amounts of the respective securities or in the form in which they are held or in the manner in which they can be transferred

## CHAPTER XI

### SUPER TAX

#### A —General

**95 Charge of super-tax**—(1) In addition to the income-tax charged for any assessment year, and save as otherwise provided in this Act, there shall be charged for that assessment year in respect of the total income of the previous year or previous years, as the case may be, of every person, not being a registered firm, an additional duty of income-tax (in this Act referred to as super-tax) at the rate or rates laid down for that assessment year by any Central Act

Provided that, where by virtue of any provision of this Act super-tax is to be charged in respect of the income of a period other than the previous year, super-tax shall be charged accordingly

(2) In respect of income chargeable under sub section (1), super-tax shall be deducted at the source or paid in advance, where it is so deductible or payable under any provision of this Act

(3) In the case of a registered firm, or an unregistered firm which has been assessed in the manner applicable to a registered firm under the provisions of clause (b) of section 183, super-tax shall be payable by each partner of

the firm individually on his share in the income of the firm and not by the firm itself

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**96 Total income for super-tax**—Subject to the provisions of this Chapter, the total income of any person shall, for the purposes of super-tax, be the total income as assessed for the purposes of income-tax, and where an assessment of total income has become final and conclusive for the purposes of income tax for any assessment year, the assessment shall also be final and conclusive for the purposes of super-tax for the same assessment year

**97 Applicability of Act to super-tax.**—(1) All the provisions of this Act relating to the charge, assessment, collection and recovery of income tax shall apply, so far as may be and save as otherwise provided, to the charge, assessment, collection and recovery of super-tax

(2) Save as expressly provided in any other section in this Chapter, the provisions of section 4, section 181 and sub-section (1) of section 191 and of Chapters VII and VIII and rules 7 and 8 of Part A of the Fourth Schedule and rule 3(c) of the First Schedule shall not apply to the charge, assessment, collection and recovery of super tax

**98 Avoidance of super-tax**—Without prejudice to the generality of the provisions of section 96, the *Explanation* to sub section (1) of section 94, sub-sections (2), (3) and (6) of that section and section 270 shall apply in relation to super-tax as they apply in relation to income tax, with the modification that references therein to income-tax shall be construed as references to super-tax

*B—Incomes forming part of total income on which  
no super-tax is payable*

**99 Incomes not chargeable to super-tax**—(1) Super-tax shall not be payable by an assessee in respect of the following amounts which are included in his total income—

- (i) if the assessee is a partner of an unregistered firm, any portion of the assessee's share in the profits and gains of the firm computed in the manner laid down in section 67 on which super-tax has already been paid by the firm,
- (ii) if the assessee is a member of an association of persons or any other body of individuals, any portion of the amount which he is entitled to receive from the association or body, on which super-tax has already been paid by the association or body, as the case may be,
- (iii) any dividends received by the assessee from a co-operative society as a member thereof,
- (iv) if the assessee is a company, any dividend received by it from an Indian company, subject to the provisions contained in the Fifth Schedule,
- (v) where the assessee is a co-operative society, any income in respect whereof no income-tax is payable by it by virtue of the provisions of section 81

(2) Super-tax shall not be payable by an assessee which is an authority constituted under any law for the time being in force for the marketing of commodities on any income derived from the letting of godowns or warehouses for storage, processing or facilitating the marketing of commodities

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*C — Relief of super-tax*

**100 Donations for charitable purposes, etc**—(1) Where under the provisions of section 84, an assessee is entitled to a deduction of income tax in respect of any sum paid as donation, he shall also be entitled, subject to the provisions of sub-section (1) of that section, to a deduction, from the amount of super-tax with which he is chargeable on his total income, of an amount equal to the super-tax calculated at the average rate of super-tax on such sum.

(2) The provision of this section do not apply to a company.

**101. Newly established industrial undertakings or hotels**—(1) The assessee shall be entitled to a deduction from the amount of super-tax with which he is chargeable on his total income, of an amount equal to the super-tax, calculated at the average rate of super-tax, on profits or gains derived from an industrial undertaking or hotel in case where and to the extent to which income tax is not payable on such profits or gains under section 84.

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(2) Subject to any rules that may be made by the Board in this behalf, a shareholder shall be entitled to a deduction, from the amount of super-tax with which he is chargeable on his total income, of an amount equal to the super-tax, calculated at the average rate of super-tax, on so much of any dividend paid or deemed to be paid to him by an industrial undertaking or hotel as is attributable to that part of the profits or gains on which it is entitled to a deduction of super-tax under this section.

**102 Share from registered firm**—Where the assessee is a partner of a registered firm, he shall be entitled to a deduction, from the amount of super-tax with which he is chargeable on his total income, of an amount equal to the super-tax calculated at the average rate of super-tax on the following sum, that is to say—

the amount which represents the difference between—

- (i) the assessee's share in the total income of the firm, and
- (ii) his share in the total income of the firm as reduced by the income tax, if any, payable by the firm, at the rate of income tax applicable to its total income, on the amount of its income from all sources other than from any business carried on by it,

the shares in either case being computed in the manner laid down in section 67.

**103 Relief for salary, etc., received in arrear, etc**—The provisions of section 89 apply in relation to super-tax as they apply in relation to income-tax.

*D — Additional super-tax on undistributed profits*

**104 Super-tax on undistributed income of certain companies**—(1) Subject to the provisions of sub-section (2) and of sections 105, 106 and 107, where the Income tax Officer is satisfied that in respect of any previous year the profits and gains distributed as dividends by any company within the twelve months immediately following the expiry of that previous year are less than the statutory percentage of the distributable income of the company of that previous year, the Income tax Officer shall make an order in writing that the company shall, apart from the sum determined as payable by it on the basis of the assessment under section 143 or section 144, be liable to pay super-tax at the rate of—

- (a) fifty per cent, in the case of an investment company, and  
(b) thirty-seven per cent, in the case of any other company,  
on the distributable income as reduced by—
- (i) the amount of dividends actually distributed, and
  - (ii) any expenditure actually incurred *bona fide* for the purposes of the business, but not deducted in computing the income chargeable under the head " Profits and gains of business or profession " being—
    - (a) a bonus or gratuity paid to an employee,
    - (b) legal charges,
    - (c) any such expenditure as is referred to in clause (c) of section 40,
    - (d) any expenditure claimed as a revenue expenditure but not allowed to be deducted as such and not resulting in the creation of an asset or enhancement in the value of an existing asset

(2) The Income-tax Officer shall not make an order under sub-section (1) if he is satisfied—

- (i) that, having regard to the losses incurred by the company in earlier years or to the smallness of the profits made in the previous year, the payment of a dividend or a larger dividend than that declared would be unreasonable, or
- (ii) that the payment of a dividend or a larger dividend than that declared would not have resulted in a benefit to the revenue, or
- (iii) that at least seventy-five per cent of the share capital of the company is throughout the previous year beneficially held by an institution or fund established in India for a charitable purpose the income from dividend whereof is exempt under section 11

**105 Special provisions for certain companies —**(1) No order under section 104 shall be made,—

- (i) in the case of an investment company which has distributed not less than eighty per cent of its distributable income, or
- (ii) in the case of any other company whose distribution falls short of the statutory percentage by not more than ten per cent of its distributable income, or
- (iii) in any case where according to the return made by a company under section 139 it has distributed not less than the statutory percentage of its distributable income, but in the assessment made by the Income tax Officer under section 143 or section 144 a higher total income is arrived at and the difference in the total income does not arise out of the application of the proviso to sub-section (1) of section 145 or sub-section (2) of section 145 or section 144 or the omission by the company to disclose its income fully and truly, or
- (iv) in the case of a company where a reassessment is made under the provisions of clause (b) of section 147 and the sum distributed as dividends falls short of the statutory percentage of the distributable income determined on the basis of the reassessment,

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unless the company, on receipt of a notice from the Income tax Officer that he proposes to make such an order, fails to make within three months of the receipt of such notice, a further distribution of its profits and gains so that the total distribution made is not less than the statutory percentage of the distributable income.

(2) Any further distribution made under subsection (1) shall not be taken into account in deciding whether the provisions of section 104 apply in respect of the previous year in which the further distribution is made.

**106 Period of limitation for making orders under section 104**—No order under section 104 shall be made after the expiry of four years from the end of the assessment year relevant to the previous year referred to in subsection (1) of that section or after the expiry of one year from the end of the financial year in which the assessment or reassessment of the profits and gains of the previous year assessed is made, whichever is later.

**107 Approval of Inspecting Assistant Commissioner for orders under section 104**—No order shall be made by the Income tax Officer under section 104 unless the previous approval of the Inspecting Assistant Commissioner has been obtained, and the Inspecting Assistant Commissioner shall not give his approval to any order proposed to be made by the Income tax Officer until he has given the company concerned an opportunity of being heard.

**108 Savings for company in which public are substantially interested**—Nothing contained in section 104 shall apply—

(a) to any company in which the public are substantially interested, or

(b) to a subsidiary company of such company if the whole of the share capital of such subsidiary company has been held by the parent company or by its nominees throughout the previous year.

**109 "Distributable income", "investment company" and "statutory percentage" defined**—For the purposes of sections 104 and 105,—

(a) "distributable income" means the total income of a company as reduced by—

(a) the amount of income tax and super-tax payable by the company in respect of its total income, but excluding the amount of any super-tax payable under section 104,

(b) the amount of any other tax levied under any law for the time being in force on the company by the Government or by a local authority in excess of the amount, if any, which has been allowed in computing the total income,

(c) any sum in respect of which a deduction of income tax is allowed under the provisions of section 88,

(d) losses under the head "Capital gains",

(e) income arising outside India in a country the laws of which prohibit or restrict the remittance of money to India.

Provided that, when the prohibition or restriction is subsequently removed any reduction allowed under this provision shall be deemed to be a part of the distributable income of the previous year in which the prohibition or restriction is removed,

- (f) in the case of a banking company, the amount actually transferred to a reserve fund under section 17 of the Banking Companies Act, 1949 (X of 1949), Div 2  
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- (ii) "investment company" means a company whose business consists wholly or mainly in the dealing in or holding of investments,
- (iii) "statutory percentage" means,—
- (1) in the case of an investment company 90%
  - (2) in the case of an Indian company whose business consists wholly in the manufacture or processing of goods or in mining or in the generation or distribution of electricity or any other form of power \*[45%]
  - (3) in the case of an Indian company, a part only of whose business consists in any of the activities specified in the preceding clause—
    - (a) in relation to the said part of the company's business \*[45%]
    - (b) in relation to the remaining part of the company's business—
      - (1) if it is a company which satisfies the conditions specified in sub-clause (a) of clause (4) 90%
      - (2) in any other case †[60%]

the said percentages being applied separately with reference to the amounts of profits and gains attributable to the two parts of the company's business aforesaid as if the said amounts were respectively the total income of the company in relation to each of its parts, the amount of dividends and taxes also being similarly apportioned, for the purposes of section 104 and this section,
  - (4) in the case of any other company not referred to in the preceding clauses,—
    - (a) where the accumulated profits and reserves (including depreciation reserves and any amounts capitalised from the earlier reserves) representing accumulations of past profits which have not been the subject of an order under section 104 or the corresponding provision of the Indian Income tax Act, 1922 (XI of 1922), exceed—
 

either

I the aggregate of—

      - (i) the paid-up capital of the company exclusive of the capital, if any, created

\*Substituted for "50%" by s 10 of the Finance (No 2) Act, 1962, with effect from the 1st April, 1962

†Substituted for "65%", *ibid*, with effect from the 1st April, 1962

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out of its profits and gains which have not been the subject of an order under section 104, and

(ii) any loan capital which is the property of the shareholders,

or

II the value of the fixed assets as shown in the books of the company,

whichever of these is greater

90%

(b) where sub clause (a) does not apply

\*[60%]

## CHAPTER XII

### DETERMINATION OF TAX IN CERTAIN SPECIAL CASES

**110 Determination of tax where total income includes income on which no tax is payable**—Where there is included in the total income of an assessee any income on which no income-tax or, as the case may be, no super-tax is payable under the provisions of this Act, the assessee shall be entitled to a deduction—

- (a) from the amount of income-tax with which he is chargeable on his total income, of an amount equal to the income-tax calculated at the average rate of income tax on the amount on which no income-tax is payable, and
- (b) from the amount of super-tax with which he is chargeable on his total income, of an amount equal to the super-tax calculated at the average rate of super-tax on the amount on which no super-tax is payable

**111 Tax on accumulated balance of recognised provident fund**—  
(1) Where the accumulated balance due to an employee participating in a recognised provident fund is included in his total income, owing to the provisions of rule 8 of Part A of the Fourth Schedule not being applicable, the Income-tax Officer shall calculate the total of the various sums of income tax and super-tax in accordance with the provisions of sub rule (1) of rule 9 thereof

(2) Where the accumulated balance due to an employee participating in a recognised provident fund which is not included in his total income under the provisions of rule 8 of Part A of the Fourth Schedule becomes payable, super-tax shall be calculated in the manner provided in sub-rule (2) of rule 9 thereof

**112 Tax on compensation**—Where the total income of an assessee, not being a company, includes any compensation or other payment which is chargeable as the profits and gains of business or profession in accordance with the provisions of clause (ii) of section 28, the tax payable by him on his total income shall be—

- (i) the income-tax payable on the total income as reduced by the amount of such compensation or other payment and of the capital gains, if any,

\* Substituted for "65%" by s 10 of the Finance (No 2) Act, 1962, with effect from the 1st April, 1962

- (u) the super-tax payable on the total income as reduced by the amount of such compensation or other payment and of capital gains, if any ,
- (uu) the tax on such compensation or other payment equal to the amount which bears to the income-tax and super-tax which would have been payable on the total income as reduced by the amount of capital gains, if any, and two-thirds of the amount of such inclusion, the same proportion as the whole amount of such compensation or other payment bears to such reduced total income , and
- (iv) the tax on capital gains, if any, computed in accordance with the provisions of clause (b) of section 114

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**113. Tax in the case of non-resident —**(1) Where a person is a non-resident and is not a company, the tax payable by him or on his behalf, on his total income shall be an amount equal to—

- (a) the income-tax which would be payable on his total income at the maximum rate, *plus*
- (b) either the super-tax which would be payable on his total income at the rate of nineteen per cent or the super-tax which would be payable on his total income if it were the total income of a resident, whichever is greater

(2) Notwithstanding anything contained in sub-section (1), where a citizen of India, not resident in India, is in receipt of salary from the Government for rendering service outside India, the tax payable by him on his total income for the assessment years commencing with the assessment year 1960 61 shall be determined with reference to his total world income in the manner specified in sub section (4)

(3) Any non-resident, other than a company, may, on or before the 30th day of June of the assessment year in which he first becomes assessable as a non-resident, by notice in writing to the Income-tax Officer, declare (such declaration being final and being applicable to all assessments thereafter) that the tax payable by him or on his behalf on his total income shall be determined with reference to his total world income, and thereupon, notwithstanding the provisions of sub-section (1), such tax shall be determined in accordance with sub section (4)

(4) Where under the provisions of sub section (3) any non-resident has exercised his option to be taxed with reference to his total world income, the tax payable by him or on his behalf shall be the tax payable on his total income as if it were the total income of a resident or an amount bearing to the total amount of tax which would have been payable on his total world income had it been his total income the same proportion as the total income bears to the total world income, whichever is greater

(5) Where any person referred to in sub-section (1) satisfies the Income-tax Officer that he was prevented by sufficient cause from making the declaration referred to in sub-section (3) or in any similar provision of the Indian Income-tax Act, 1922 (XI of 1922), on the first occasion on which he became assessable as a non-resident under this Act or the said Act, as the case may be, and his failure to make such declaration has not resulted in reducing his liability to tax for any year, the Income-tax Officer may, with the previous approval of the Inspecting Assistant Commissioner, allow such person to make the declaration at any time after the expiry of the period specified, and such declaration shall have effect in relation to the assessment for the year in which the declaration is made (if such assessment had not been completed



- (b) the amount of super tax equal to the aggregate of the amount of super tax calculated at the rate of five per cent. on the amount of the capital gains relating to capital assets other than short term capital assets included in the total income and the amount of super tax with which it would be chargeable had its total income been reduced by the amount of such aforesaid capital gains ]

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## CHAPTER XIII

### INCOME TAX AUTHORITIES

#### 1. — *Appointment and control*

**116 Income tax authorities** — There shall be the following classes of Income tax authorities for the purposes of this Act, namely —

- (a) the Central Board of Revenue,
- (b) Directors of Inspection,
- (c) Commissioners of Income tax,
- (d) Assistant Commissioners of Income-tax, who may be either Appellate Assistant Commissioners of Income tax or Inspecting Assistant Commissioners of Income tax,
- (e) Income tax Officers, and
- (f) Inspectors of Income tax

**117. Appointment of Income tax authorities** — (1) The Central Government may appoint as many Directors of Inspection, Commissioners of Income tax, Appellate or Inspecting Assistant Commissioners of Income-tax and Income tax Officers of Class I Service, as it thinks fit

(2) The Commissioner may, subject to the rules and orders of the Central Government regulating the conditions of service of persons in public services and posts, appoint as many Income tax Officers of Class II Service and as many Inspectors of Income-tax as may be sanctioned by the Central Government

(3) Subject to the rules and orders of the Central Government regulating the conditions of service of persons in public services and posts, an Income-tax authority may appoint such executive or ministerial staff as may be necessary to assist it in the execution of its functions

**118 Control of Income tax authorities** — (1) Inspecting Assistant Commissioners shall be subordinate to the Commissioner within whose jurisdiction they perform their functions, and also to the Director of Inspection

(2) Income-tax Officers shall be subordinate to the Commissioner and the Inspecting Assistant Commissioner within whose jurisdiction they perform their functions and also to the Director of Inspection

(3) Inspectors of Income-tax shall be subordinate to the Income-tax Officer or other Income tax authority under whom they are appointed to work and to any other Income-tax authority to whom the said officer or other authority is subordinate

*Explanation* — For the purposes of sub section (1), "Director of Inspection" does not include a Deputy Director of Inspection or an Assistant Director of Inspection, and for the purposes of sub-section (2), "Director of Inspection" does not include an Assistant Director of Inspection

Div 2      119 Instructions to subordinate authorities —(1) All officers and persons  
Ss      employed in the execution of this Act shall observe and follow the orders,  
119-124 instructions and directions of the Board

Provided that no such orders, instructions or directions shall be given so as to interfere with the discretion of the Appellate Assistant Commissioner in the exercise of his appellate functions

(2) Every Income-tax Officer employed in the execution of this Act shall observe and follow such instructions as may be issued to him for his guidance by the Director of Inspection or by the Commissioner or by the Inspecting Assistant Commissioner within whose jurisdiction he performs his functions

### *B —Jurisdiction*

120 Jurisdiction of Directors of Inspection —Directors of Inspection shall perform such functions of any other Income-tax authority as may be assigned to them by the Board

121 Jurisdiction of Commissioners —(1) Commissioners shall perform their functions in respect of such areas or of such persons or classes of persons or of such incomes or classes of income or of such cases or classes of cases as the Board may direct

(2) Where any directions issued under sub-section (1) have assigned to two or more Commissioners, the same area or the same persons or classes of persons or the same incomes or classes of income or the same cases or classes of cases, they shall have concurrent jurisdiction, subject to any orders which the Board may make for the distribution and allocation of the work to be performed.

122 Jurisdiction of Appellate Assistant Commissioners —(1) Appellate Assistant Commissioners shall perform their functions in respect of such areas or of such persons or classes of persons or of such incomes or classes of income as the Board may direct

(2) Where any directions issued under sub-section (1) have assigned to two or more Appellate Assistant Commissioners, the same area or the same persons or classes of persons or the same incomes or classes of income, they shall perform their functions in accordance with any orders which the Board may make for the distribution and allocation of the work to be performed

123 Jurisdiction of Inspecting Assistant Commissioners —(1) Inspecting Assistant Commissioners shall perform their functions in respect of such areas or of such persons or classes of persons or of such incomes or classes of income as the Commissioner may direct

(2) Where any directions issued under sub-section (1) have assigned to two or more Inspecting Assistant Commissioners, the same area or the same persons or classes of persons or the same incomes or classes of income, they shall perform their functions in accordance with any orders which the Commissioner may make for the distribution and allocation of the work to be performed

124 Jurisdiction of Income-tax Officers —(1) Income-tax Officers shall perform their functions in respect of such areas or of such persons or classes of persons or of such incomes or classes of income as the Commissioner may direct

(2) Where any directions issued under sub-section (1) have assigned to two or more Income-tax Officers, the same area or the same persons or classes of persons or the same incomes or classes of income, they shall perform their functions in accordance with any orders which the Commissioner may make for the distribution and allocation of the work to be performed

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(3) Within the limits of the area assigned to him, the Income tax Officer shall have jurisdiction—

(a) in respect of any person carrying on a business or profession, if the place at which he carries on his business or profession is situate within the area, or where his business or profession is carried on in more places than one, if the principal place of his business or profession is situate within the area, and

(b) in respect of any other person residing within the area

(4) Where a question arises under this section as to whether an Income-tax Officer has jurisdiction to assess any person, the question shall be determined by the Commissioner, or where the question is one relating to areas within the jurisdiction of different Commissioners, by the Commissioners concerned or if they are not in agreement, by the Board

(5) No person shall be entitled to call in question the jurisdiction of an Income-tax Officer—

(a) after the expiry of one month from the date on which he has made a return under sub-section (1) of section 139 or after the completion of the assessment, whichever is earlier,

(b) where he has made no such return, after the expiry of the time allowed by the notice under sub section (2) of section 139 or under section 148 for the making of the return

(6) Subject to the provisions of sub section (5), where an assessee calls in question the jurisdiction of an Income-tax Officer, then the Income tax Officer shall, if not satisfied with the correctness of the claim, refer the matter for determination under sub-section (4) before assessment is made

(7) Notwithstanding anything contained in this section, every Income-tax Officer shall have all the powers conferred by or under this Act on an Income-tax Officer in respect of any income accruing or arising or received within the area for which he is appointed

#### 125 Powers of Commissioner respecting specified cases or persons —

(1) The Commissioner may, by general or special order in writing, direct that the powers conferred on the Income-tax Officer and the Appellate Assistant Commissioner by or under this Act, shall, in respect of any specified case or classes of cases or of any specified persons or classes of persons, be exercised by the Inspecting Assistant Commissioner and the Commissioner respectively

(2) Where an order under sub-section (1) is issued, then for the purposes of any case or person in respect of which any such order applies, references in this Act or in any rule made hereunder to the Income-tax Officer and the Appellate Assistant Commissioner shall be deemed to be references to the Inspecting Assistant Commissioner and the Commissioner respectively

(3) For the purposes of any case or person in respect of which or whom an order under sub-section (1) applies—

(a) any provision of this Act requiring an approval or sanction of the Inspecting Assistant Commissioner shall not apply,

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- (b) any appeal which would otherwise have lain to the Appellate Assistant Commissioner shall lie to the Commissioner,
- (c) any appeal which would have lain from an order of the Appellate Assistant Commissioner to the Appellate Tribunal shall lie from the order of the Commissioner

**126 Powers of Board respecting specified area, classes of persons or incomes**—Notwithstanding anything contained in the foregoing sections, the Board may, by notification in the Official Gazette, empower Commissioners, Appellate Assistant Commissioners, Inspecting Assistant Commissioners and Income tax Officers to perform such functions in respect of such area or of such classes of persons or of such classes of income as may be specified in the notification, and thereupon the functions so specified shall cease to be performed in respect of the area or classes of persons or classes of income by the other authorities under section 121, section 122, section 123 or section 124

**127 Transfer of cases from one Income tax Officer to another**—(1) The Commissioner may, after giving the assessee a reasonable opportunity of being heard in the matter, wherever it is possible to do so, and after recording his reasons for doing so, transfer any case from one Income tax Officer subordinate to him to another also subordinate to him, and the Board may similarly transfer any case from one Income-tax Officer to another

Provided that nothing in this sub section shall be deemed to require any such opportunity to be given where the transfer is from one Income-tax Officer to another whose offices are situate in the same city, locality or place

(2) The transfer of a case under sub section (1) may be made at any stage of the proceedings, and shall not render necessary the re-issue of any notice already issued by the Income tax Officer from whom the case is transferred

*Explanation*—In this section and in sections 121 and 125, the word "case", in relation to any person whose name is specified in any order or direction issued thereunder, means all proceedings under this Act in respect of any year which may be pending on the date of such order or direction or which may have been completed on or before such date, and includes also all proceedings under this Act which may be commenced after the date of such order or direction in respect of any year

**128 Functions of Inspectors of Income-tax**—Inspectors of Income tax shall perform such functions in the execution of this Act as are assigned to them by the Income tax Officer or other Income-tax authority under whom they are appointed to work

**129 Change of incumbent of an office**—Whenever in respect of any proceeding under this Act an Income-tax authority ceases to exercise jurisdiction and is succeeded by another who has and exercises jurisdiction, the Income-tax authority so succeeding may continue the proceeding from the stage at which the proceeding was left by his predecessor

Provided that the assessee concerned may demand that before the proceeding is so continued the previous proceeding or any part thereof be re opened or that before any order of assessment is passed against him, he be re heard

**130 Authority competent to take or continue certain proceedings**—For the purposes of sections 253, 254, 256, 263 and 264, the Commissioner referred to therein shall, in relation to an assessee, be the Commissioner having for the time being jurisdiction over the assessee

*C — Powers*Div. 2  
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**131 Power regarding discovery, production of evidence, etc —**(1) The Income-tax Officer, Appellate Assistant Commissioner and Commissioner shall, for the purposes of this Act, have the same powers as are vested in a court under the Code of Civil Procedure, 1908 (V of 1908), when trying a suit in respect of the following matters, namely —

- (a) discovery and inspection ,
- (b) enforcing the attendance of any person, including any officer of a banking company and examining him on oath ,
- (c) compelling the production of books of account and other documents , and
- (d) issuing commissions

(2) Without prejudice to the provisions of any other law for the time being in force, where a person to whom a summons is issued either to attend to give evidence or produce books of account or other documents at a certain place and time, intentionally omits to attend or produce the books of account or documents at the place or time, the Income-tax authority may impose upon him such fine not exceeding five hundred rupees as it thinks fit, and the fine so levied may be recovered in the manner provided in Chapter XVII-D

(3) Subject to any rules made in this behalf, any authority referred to in sub-section (1) may impound and retain in its custody for such period as it thinks fit any books of account or other documents produced before it in any proceeding under this Act

Provided that an Income-tax Officer shall not—

- (a) impound any books of account or other documents without recording his reasons for so doing, or
- (b) retain in his custody any such books or documents for a period exceeding fifteen days (exclusive of holidays) without obtaining the approval of the Commissioner therefor

**132 Powers of search and seizure —**(1) Subject to any rules made in this behalf, any Income-tax Officer specially authorised by the Commissioner in this behalf may,— (R 112)

- (i) enter and search any building or place where he has reason to believe that any books of account or other documents which in his opinion will be useful for, or relevant to, any proceeding under this Act, may be found, and examine them, if found ,
- (ii) seize any such books of account or other documents ,
- (iii) place marks of identification on any such books of account or other documents or make or cause to be made extracts or copies therefrom ,
- (iv) make a note or an inventory of any articles or things found in the course of any search under this section which in his opinion will be useful for, or relevant to, any proceeding under this Act

(2) The provisions of the Code of Criminal Procedure, 1898 (V of 1898), relating to searches shall apply, so far as may be, to searches under this section

**133 Power to call for information —**The Income-tax Officer, the Appellate Assistant Commissioner or the Inspecting Assistant Commissioner may, for the purposes of this Act,— (R 12)

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- (1) require any firm to furnish him with a return of the names and addresses of the partners of the firm and their respective shares ,
- (2) require any Hindu undivided family to furnish him with a return of the names and addresses of the manager and the members of the family ,
- (3) require any person whom he has reason to believe to be a trustee, guardian or agent, to furnish him with a return of the names of the persons for or of whom he is trustee, guardian or agent, and of their addresses ,
- (4) require any assessee to furnish a statement of the names and addresses of all persons to whom he has paid in any previous year rent, interest, commission, royalty or brokerage, or any annuity, not being any annuity taxable under the head "Salaries" amounting to more than four hundred rupees, together with particulars of all such payments made ,
- (5) require any dealer, broker or agent or any person concerned in the management of a stock or commodity Exchange to furnish a statement of the names and addresses of all persons to whom he or the Exchange has paid any sum in connection with the transfer, whether by way of sale, exchange or otherwise, of assets, or on whose behalf or from whom he or the Exchange has received any such sum, together with particulars of all such payments and receipts ,
- (6) require any person, including a banking company or any officer thereof, to furnish information in relation to such points or matters, or to furnish statements of accounts and affairs verified in the manner specified by the Income-tax Officer, the Appellate Assistant Commissioner or the Inspecting Assistant Commissioner, giving information in relation to such points or matters as, in the opinion of the Income-tax Officer, the Appellate Assistant Commissioner or the Inspecting Assistant Commissioner, will be useful for, or relevant to, any proceeding under this Act

**134 Power to inspect registers of companies**—The Income tax Officer, the Appellate Assistant Commissioner or the Inspecting Assistant Commissioner, or any person subordinate to him authorised in writing in this behalf by the Income-tax Officer, the Appellate Assistant Commissioner or the Inspecting Assistant Commissioner, may inspect, and if necessary, take copies, or cause copies to be taken, of any register of the members, debenture holders or mortgagees of any company or of any entry in such register

**135 Power of Director of Inspection, Commissioner and Inspecting Assistant Commissioner**—The Director of Inspection, the Commissioner and the Inspecting Assistant Commissioner shall be competent to make any enquiry under this Act, and for this purpose shall have all the powers that an Income-tax Officer has under this Act in relation to the making of enquiries

**136 Proceedings before Income tax authorities to be judicial proceedings**—Any proceeding under this Act before an Income-tax authority shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purposes of section 196 of the Indian Penal Code (XLV of 1860)

*D —Disclosure of information*Div 2  
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**137 Disclosure of information prohibited** —(1) All particulars contained in any statement made, return furnished or accounts or documents produced under the provisions of this Act, or in any evidence given, or affidavit or deposition made in the course of any proceedings under this Act, other than proceedings under Chapter XXII, or in any record of any assessment proceeding, or any proceeding relating to recovery of a demand, prepared for the purposes of this Act, shall be treated as confidential, and notwithstanding anything contained in the Indian Evidence Act, 1872 (I of 1872), no court shall, save as provided in this Act, be entitled to require any public servant to produce before it any such return, accounts, documents or record or any part of any such record, or to give evidence before it in respect thereof

(2) No public servant shall disclose any particulars contained in any such statement, return, accounts, documents, evidence, affidavit, deposition or record

(3) Nothing in this section shall apply to the disclosure—

- (i) of any such particulars for the purposes of a prosecution for any offence under the Indian Penal Code (XLV of 1860) in respect of any such statement, return, accounts, documents, evidence, affidavit or deposition, or for the purposes of a prosecution for any offence under this Act, or
- (ii) of any such particulars to any person acting in the execution of this Act, where it is necessary or desirable to disclose the same to him for the purposes of this Act, or
- (iii) of any such particulars, where the disclosure is occasioned by the lawful employment under this Act of any process for the service of any notice or the recovery of any demand, or
- (iv) of any such particulars to a civil court in any suit or proceeding to which the Government or any Income-tax authority is a party, which relates to any matter arising out of any proceeding under this Act or under any other law for the time being in force authorising any Income-tax authority to exercise any powers thereunder, or
- (v) of any such particulars to the Comptroller and Auditor-General of India for the purpose of enabling him to discharge his functions under the Constitution, or
- (vi) of any such particulars to any officer appointed by the Comptroller and Auditor-General of India or the Board to audit income tax receipts or refunds, or
- (vii) of any such particulars, relevant to any inquiry into the conduct of an official of the Income tax Department, to any person appointed Commissioner under the Public Servants (Inquiries) Act, 1850 (XXXVII of 1850), or to an officer otherwise appointed to hold such inquiry, or to a Public Service Commission established under the Constitution, when exercising its functions in relation to any matter arising out of any such inquiry, or to a court in connection with the prosecution arising out of any such inquiry, or
- (viii) with the previous permission of the Central Government, of any such particulars as may be required by any Commission of Inquiry appointed by the Central Government under the

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- Commissions of Inquiry Act, 1952 (LX of 1952), or by any authority to which the provisions of that Act have been made applicable by the Central Government, for the purpose of any inquiry by such Commission or authority, or
- (ix) of any such particulars relevant to any inquiry into a charge of misconduct in connection with income tax proceedings against a legal practitioner or chartered accountant, to the authority empowered to take disciplinary action against members of the profession to which he belongs, or
  - (x) of any such particulars by any public servant, where the disclosure is occasioned by the lawful exercise by him of his powers under the Indian Stamp Act, 1899 (II of 1899), to impound an insufficiently stamped document, or
  - (xi) of such facts, to an authorised officer of the Government of any country outside India for the granting of relief in respect of or avoidance of double taxation as may be necessary for the purpose of enabling such relief or a refund under section 90 to be given or such avoidance under that section to be made effective, or
  - (xii) of such facts, to an officer of a State Government authorised in this behalf as may be necessary for the purpose of enabling that Government to levy or realise any tax imposed by it, or
  - (xiii) of such facts, to an officer of the Central Government authorised in this behalf as may be necessary for the purpose of enabling that Government to levy or realise any tax imposed by it, or
  - (xiv) of such facts, to any authority exercising powers under the Sea Customs Act, 1878 (VIII of 1878), or any Central Act imposing a duty of excise as may be necessary for enabling it duly to exercise such powers, or
  - (xv) of such facts, to any person charged by law with the duty of inquiring into the qualifications of electors as may be necessary to establish whether a person is or is not entitled to be entered on an electoral roll, or
  - (xvi) of so much of such particulars, to the appropriate authority, as may be necessary to establish whether a person has or has not been assessed to income tax in any particular year or years, where under the provisions of any law for the time being in force such fact is required to be established, or
  - (xvii) of such particulars to the Reserve Bank of India as are required by that Bank to enable it to compile financial statistics of international investment and balance of payments, or
  - (xviii) of such information as may be required by any officer or department of the Central Government or of a State Government for the purpose of investigation into the conduct and affairs of any public servant or to a court in connection with any prosecution of the public servant arising out of any such investigation, or
  - (xix) of any such particulars to the Custodian of Evacuee Property appointed under the Administration of Evacuee Property Act, 1950 (XXXI of 1950), for the purpose of enabling him



to discharge the duties imposed upon him by or under the said Act, or

(xx) of any such particulars as may be required by any order made under sub section (2) of section 19 of the Foreign Exchange Regulation Act, 1947 (VII of 1947), or for the purposes of any proceeding or of a prosecution for an offence under section 23 of that Act, or

(xxi) of so much of such particulars to any person as is evidence of the fact that any property does not belong to the assessee but belongs to such person

Provided that the assessee had, prior to such disclosure, been examined by the Income-tax Officer in respect of his right to such property

(4) Nothing in this section shall apply to the production by a public servant before a court of any document, declaration or affidavit filed, or the record of any statement or deposition made in a proceeding under section 171 or sections 184 to 186 or to the giving of evidence by a public servant in respect thereof

(5) Nothing in this section shall be construed as prohibiting the voluntary disclosure of any particulars referred to in sub section (1) by the person by whom the statement was made, the return furnished, the accounts or documents produced, the evidence given or the affidavit or deposition made, as the case may be

*Explanation* —In sub sections (1), (2) and (4), “public servant” means any public servant employed in the execution of this Act

**138 Disclosure of information respecting tax payable** —Where a person makes an application to the Commissioner in the prescribed form and pays the prescribed fee for information as to the amount of tax determined as payable by any assessee in respect of any assessment made either under this Act or the Indian Income-tax Act, 1922 (XI of 1922), on or after the 1st day of April, 1960, the Commissioner may, notwithstanding anything contained in section 137, if he is satisfied that there are no circumstances justifying its refusal, furnish or cause to be furnished the information asked for

## CHAPTER XIV

### PROCEDURE FOR ASSESSMENT

**139 Return of income** —(1) Every person, if his total income or the total income of any other person in respect of which he is assessable under this Act during the previous year exceeded the maximum amount which is not chargeable to income tax, shall furnish a return of his income or the income of such other person during the previous year in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed—

(a) in the case of every person whose total income, or the total income of any other person in respect of which he is assessable under this Act, includes any income from business or profession, before the expiry of six months from the end of the previous year or where there is more than one previous year, from the end

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S 139

of the previous year which expired last before the commencement of the assessment year, or before the 30th day of June of the assessment year, whichever is later,

(b) in the case of every other person, before the 30th day of June of the assessment year

(R 13) Provided that, on an application made in the prescribed manner, the Income-tax Officer may, in his discretion, extend the date for furnishing the return—

- (i) in the case of any person whose total income includes any income from business or profession the previous year in respect of which expired on or before the 31st day of December of the year immediately preceding the assessment year, and in the case of any person referred to in clause (b), up to a period not extending beyond the 30th day of September of the assessment year without charging any interest,
- (ii) in the case of any person whose total income includes any income from business or profession the previous year in respect of which expired after the 31st day of December of the year immediately preceding the assessment year, up to the 31st day of December of the assessment year without charging any interest, and
- (iii) up to any period falling beyond the dates mentioned in clauses (i) and (ii), in which case, interest at six per cent per annum shall be payable from the 1st day of October or the 1st day of January, as the case may be, of the assessment year to the date of the furnishing of the return—
  - (a) in the case of a registered firm or an unregistered firm which has been assessed under clause (b) of section 183, on the amount of tax which would have been payable if the firm had been assessed as an unregistered firm, and
  - (b) in any other case, on the amount of tax payable on the total income <sup>†</sup>\*, reduced by the advance tax, if any, paid or by any tax deducted at source, as the case may be

\*[(1A) Where as a result of an order under section 154 or section 155 or section 250 or section 254 or section 260 or section 262 or section 264, the amount of tax on which interest was payable under clause (iii) of the proviso to sub section (1) has been reduced, the interest shall be reduced accordingly, and the excess interest paid, if any, shall be refunded ]

(2) In the case of any person who, in the Income-tax Officer's opinion, is assessable under this Act, whether on his own total income or on the total income of any other person during the previous year, the Income-tax Officer may, before the end of the relevant assessment year, serve a notice upon him requiring him to furnish, within thirty days from the date of service of the notice, a return of his income or the income of such other person during the previous year, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed

(R 13)

Provided that on an application made in the prescribed manner the Income tax Officer may, in his discretion, extend the date for the furnishing of the return, and when the date for furnishing the return, whether fixed

<sup>†</sup> "As finally assessed" omitted by s 8 of the Finance Act, 1963, with retrospective effect from the commencement of the Act

\* Inserted by s 8 of the Finance Act, 1963, with retrospective effect from the commencement of the Act

originally or on extension, falls beyond the 30th day of September or, as the case may be, the 31st day of December of the assessment year, the provisions of sub-clause (iii) of the proviso to sub-section (1) shall apply

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(3) If any person who has not been served with a notice under sub section (2), has sustained a loss in any previous year under the head "Profits and gains of business or profession" or under the head "Capital gains" and claims that the loss or any part thereof should be carried forward under sub-section (1) of section 72 or sub-section (2) of section 73, or sub section (1) of section 74, he may furnish, within the time allowed under sub section (1), a return of loss in the prescribed form and verified in the prescribed manner and containing such other particulars as may be prescribed, and all the provisions of this Act shall apply as if it were a return under sub section (1)

(4) Any person who has not furnished a return within the time allowed to him under sub-section (1) or sub-section (2) may before the assessment is made furnish the return for any previous year at any time before the end of four assessment years from the end of the assessment year to which the return relates, and the provisions of sub-clause (iii) of the proviso to sub-section (1) shall apply in every such case

(5) If any person having furnished a return under sub-section (1) or sub-section (2), discovers any omission or any wrong statement therein, he may furnish a revised return at any time before the assessment is made

(6) The prescribed form of the returns referred to in sub-sections (1), (2) and (3) shall, in the case of an assessee engaged in business or profession, require him to furnish particulars of the location and style of the principal place where he carries on the business or profession and all the branches thereof, the names and addresses of his partners, if any, in such business or profession and if he is a member of an association or body of individuals, the names of the other members of the association or the body and the extent of the share of the assessee and the shares of all such partners or the members, as the case may be, in the profits of the business or profession and any branches thereof

(7) No return under sub-section (1) need be furnished by any person for any previous year if he has already furnished a return of income for such year in accordance with the provisions of sub section (2)

\*[(8) Notwithstanding anything contained in clause (iii) of the proviso to sub-section (1), the Income-tax Officer may, in such cases and under such circumstances as may be prescribed, reduce or waive the interest payable by any person under any provision of this section]

**140 Return by whom to be signed**—The return under section 139 shall be signed and verified—

- (a) in the case of an individual, by the individual himself, where the individual is absent from India, by the individual concerned or by some person duly authorised by him in this behalf, and where the individual is mentally incapacitated from attending to his affairs, by his guardian or by any other person competent to act on his behalf,
- (b) in the case of a Hindu undivided family, by the Karta, and, where the Karta is absent from India or is mentally incapacitated from attending to his affairs, by any other adult member of such family;

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- (c) in the case of a company or local authority, by the principal officer thereof,
- (d) in the case of a firm, by any partner thereof, not being a minor,
- (e) in the case of any other association, by any member of the association or the principal officer thereof, and
- (f) in the case of any other person, by that person or by some person competent to act on his behalf

(R 16)

**141 Provisional assessment**—(1) The Income tax Officer may, at any time after the receipt of a return made under section 139, proceed to make, in a summary manner, a provisional assessment of the tax payable by the assessee, on the basis of his return and the accounts and documents, if any, accompanying it

(2) In making any assessment under this section due effect shall be given to—

- (a) the allowance referred to in sub section (2) of section 32, and
- (b) any loss carried forward under sub section (1) of section 72 or sub section (2) of section 73 or sub section (1) of section 74

(3) A partner of a firm may be assessed under sub section (1) in respect of his share in the income of the firm, if its return has been received, even if the return of the partner himself has not been received

(4) A firm may be assessed under sub section (1) as an unregistered firm, except in the following cases, where it shall be assessed as a registered firm—

- (a) where the firm was assessed as a registered firm for the latest assessment year for which its assessment has been completed, and it has before the expiry of the period laid down in Chapter XVI-B filed its application for registration or declaration under sub-section (7) of section 184 for the assessment year for which the provisional assessment is to be made,
- (b) where no regular assessment has been made on the firm for any assessment year preceding the assessment year for which the provisional assessment is to be made, and the firm has, before the expiry of the period laid down in Chapter XVI-B filed its application for registration, or declaration as aforesaid, for the assessment year for which the provisional assessment is to be made

(5) After a regular assessment has been made, any amount paid or deemed to have been paid towards the provisional assessment made under sub-section (1) shall be deemed to have been paid towards the regular assessment, and where the amount paid or deemed to have been paid towards the provisional assessment exceeds the amount payable under the regular assessment, the excess shall be refunded to the assessee

(6) Nothing done or suffered by reason or in consequence of any provisional assessment made under this section shall prejudice the determination, on the merits, of any issue which may arise in the course of the regular assessment

(7) There shall be no right of appeal against a provisional assessment made under sub-section (1)

**\*[141A** Relief to be given to, and interest to be recovered from, assesseees **Div. 2**  
**in certain cases —**(1) If any assessee having furnished a return under section **Ss**  
 139 before the 1st day of January of the assessment year, pays before that **141A,**  
 date the tax determined as payable by him in pursuance of a provisional **142**  
 assessment made under section 141 or a regular assessment made under  
 section 143 or section 144, or where neither of such assessments has been  
 made before that date, the tax payable by him on the basis of such return  
 after taking into consideration the tax paid for the assessment year under  
 the provisions of Chapter XVII-B or Chapter XVII-C, he shall be entitled  
 to a deduction from the amount of income-tax and super-tax with which he  
 is chargeable of an amount equal to one per cent of the amount of tax so paid  
 by him before the said date

(2) If any assessee does not furnish a return under section 139 before  
 the 1st day of January of the assessment year and no regular assessment  
 under section 144 is made before the said date, he shall, in addition to the  
 amount of income-tax and super-tax with which he is chargeable, be liable  
 to pay an amount calculated at two per cent per annum from the said  
 1st day of January to—

(i) in the case where no return is furnished, the date on which a  
 regular assessment is made under section 144,

(ii) in the case where a return is filed after the said 1st day of  
 January, the date on which a provisional assessment under  
 section 141 or a regular assessment under section 143 or section  
 144, whichever is earlier, is made,

the calculation in the case referred to in clause (i) being made with reference  
 to the tax payable on regular assessment under section 144 and in the case  
 referred to in clause (ii) being made with reference to the tax payable on  
 the basis of the return, and in either case after taking into consideration the  
 tax already paid under the provisions of Chapter XVII-B or Chapter XVII-C

(3) If any assessee having furnished a return under section 139 before  
 the 1st day of January of the assessment year does not pay before that date  
 the tax payable on the basis of such return after taking into consideration  
 the tax already paid for the assessment year under the provisions of Chapter  
 XVII-B or Chapter XVII-C and no provisional assessment under section 141  
 or regular assessment under section 143 or section 144 is made before the  
 said date, he shall, in addition to the amount of income-tax and super tax  
 with which he is chargeable, be liable to pay an amount calculated at two  
 per cent per annum from the said 1st day of January to the date on which a  
 provisional assessment under section 141 or a regular assessment under  
 section 143 or section 144, whichever is earlier, is made, the calculation  
 being made with reference to the tax payable on the basis of the return after  
 taking into consideration the tax already paid under the provisions of the  
 aforesaid Chapters

(4) Any sum paid by an assessee in accordance with the provisions of  
 sub section (1) otherwise than in pursuance of a provisional assessment  
 made under section 141 or a regular assessment under section 143 or section  
 144, shall be treated as a payment of tax in respect of the relevant assess-  
 ment year, and credit therefor shall be given to the assessee in the regular  
 assessment ]

**142 Enquiry before assessment —**(1) For the purpose of making an  
 assessment under this Act, the Income-tax Officer may serve on any person  
 who has made a return under section 139 or upon whom a notice has been

- Div 2 served under sub section (2) of section 139 (whether a return has been  
 Ss made or not) a notice requiring him, on a date to be therein specified,—  
 142-144 (i) to produce, or cause to be produced, such accounts or documents  
 as the Income tax Officer may require, or  
 (R 14) (ii) to furnish in writing and verified in the prescribed manner  
 information in such form and on such point or matters (including  
 a statement of all assets and liabilities of the assessee, whether  
 included in the accounts or not) as the Income tax Officer may  
 require

Provided that—

- (a) the previous approval of the Inspecting Assistant Commissioner  
 shall be obtained before requiring the assessee to furnish a statement  
 of all assets and liabilities not included in the accounts ;  
 (b) the Income tax Officer shall not require the production of any  
 accounts relating to a period more than three years prior to the  
 previous year  
 (2) For the purpose of obtaining full information in respect of the income  
 or loss of any person, the Income tax Officer may make such enquiry as he  
 considers necessary  
 (3) The assessee shall, except where the assessment is made under  
 section 144, be given an opportunity of being heard in respect of any material  
 gathered on the basis of any enquiry under sub section (2) and proposed to be  
 utilised for the purpose of the assessment

**143 Assessment**—(1) Where a return has been made under section 139  
 and the Income tax Officer is satisfied without requiring the presence of the  
 assessee or the production by him of any evidence that the return is correct  
 and complete, he shall assess the total income or loss of the assessee, and  
 shall determine the sum payable by him or refundable to him on the basis of  
 such return

(2) Where a return has been made under section 139 but the Income tax  
 Officer is not satisfied without requiring the presence of the assessee or the  
 production of evidence that the return is correct and complete, he shall serve  
 on the assessee a notice requiring him, on a date to be therein specified,  
 either to attend at the Income-tax Officer's office or to produce, or to cause to  
 be there produced, any evidence on which the assessee may rely in support  
 of the return

(3) On the day specified in the notice issued under sub section (2), or as  
 soon afterwards as may be, the Income tax Officer, after hearing such  
 evidence as the assessee may produce and such other evidence as the Income  
 tax Officer may require on specified points, and after taking into account all  
 relevant material which the Income tax Officer has gathered, shall, by an  
 order in writing, assess the total income or loss of the assessee, and determine  
 the sum payable by him or refundable to him on the basis of such assessment

**144 Best judgment assessment**—If any person—

- (a) fails to make the return required by any notice given under  
 sub section (2) of section 139 and has not made a return or  
 a revised return under sub section (4) or sub section (5) of that  
 section, or  
 (b) fails to comply with all the terms of a notice issued under  
 sub section (1) of section 142, or

(c) having made a return, fails to comply with all the terms of a notice issued under sub-section (2) of section 143, the Income-tax Officer, after taking into account all relevant material which the Income-tax Officer has gathered, shall make the assessment of the total income or loss to the best of his judgment and determine the sum payable by the assessee or refundable to the assessee on the basis of such assessment

**145 Method of accounting**—(1) Income chargeable under the head "Profits and gains of business or profession" or "Income from other sources" shall be computed in accordance with the method of accounting regularly employed by the assessee

Provided that in any case where the accounts are correct and complete to the satisfaction of the Income-tax Officer but the method employed is such that, in the opinion of the Income-tax Officer, the income cannot properly be deduced therefrom, then the computation shall be made upon such basis and in such manner as the Income tax Officer may determine

(2) Where the Income-tax Officer is not satisfied about the correctness or the completeness of the accounts of the assessee, or where no method of accounting has been regularly employed by the assessee, the Income-tax Officer may make an assessment in the manner provided in section 144

**146 Reopening of assessment at the instance of the assessee**—Where an assessee assessed under section 144 makes an application to the Income-tax Officer, within one month from the date of service of a notice of demand issued in consequence of the assessment, for the cancellation of the assessment on the ground—

- (i) that he was prevented by sufficient cause from making the return required under sub section (2) of section 139, or
- (ii) that he did not receive the notice issued under sub-section (1) of section 142 or sub-section (2) of section 143, or
- (iii) that he had not a reasonable opportunity to comply, or was prevented by sufficient cause from complying, with the terms of any notice referred to in clause (ii),

the Income-tax Officer shall, if satisfied about the existence of such ground, cancel the assessment and proceed to make a fresh assessment in accordance with the provisions of section 143 or \*[section] 144

**147 Income escaping assessment**—If—

- (a) the Income-tax Officer has reason to believe that, by reason of the omission or failure on the part of an assessee to make a return under section 139 for any assessment year to the Income-tax Officer or to disclose fully and truly all material facts necessary for his assessment for that year, income chargeable to tax has escaped assessment for that year, or
- (b) notwithstanding that there has been no omission or failure as mentioned in clause (a) on the part of the assessee, the Income-tax Officer has in consequence of information in his possession reason to believe that income chargeable to tax has escaped assessment for any assessment year,

he may, subject to the provisions of sections 148 to 153, assess or reassess such income or recompute the loss or the depreciation allowance, as the case may

\* Inserted by s 10 of the Finance Act, 1963

Div 2 be, for the assessment year concerned (hereafter in sections 148 to 153 referred  
Ss to as the relevant assessment year)

147-150 *Explanation 1*—For the purposes of this section, the following shall also be deemed to be cases where income chargeable to tax has escaped assessment, namely—

- (a) where income chargeable to tax has been under-assessed, or
- (b) where such income has been assessed at too low a rate, or
- (c) where such income has been made the subject of excessive relief under this Act or under the Indian Income-tax Act, 1922 (XI of 1922), or
- (d) where excessive loss or depreciation allowance has been computed

*Explanation 2*—Production before the Income-tax Officer of account books or other evidence from which material evidence could with due diligence have been discovered by the Income-tax Officer will not necessarily amount to disclosure within the meaning of this section

**148 Issue of notice where income has escaped assessment**—(1) Before making the assessment, reassessment or recomputation under section 147, the Income-tax Officer shall serve on the assessee a notice containing all or any of the requirements which may be included in a notice under sub section (2) of section 139, and the provisions of this Act shall, so far as may be, apply accordingly as if the notice were a notice issued under that sub-section

(2) The Income-tax Officer shall, before issuing any notice under this section, record his reasons for doing so

**149 Time limit for notice**—(1) No notice under section 148 shall be issued,

(a) in cases falling under clause (a) of section 147—

(i) for the relevant assessment year, if eight years have elapsed from the end of that year, unless the case falls under sub clause (ii),

(ii) for the relevant assessment year, where eight years, but not more than sixteen years, have elapsed from the end of that year, unless the income chargeable to tax which has escaped assessment amounts to or is likely to amount to rupees fifty thousand or more for that year,

(b) in cases falling under clause (b) of section 147, at any time after the expiry of four years from the end of the relevant assessment year

(2) The provisions of sub section (1) as to the issue of notice shall be subject to the provisions of section 151

(3) If the person on whom a notice under section 148 is to be served is a person treated as the agent of a non-resident under section 163 and the assessment, reassessment or recomputation to be made in pursuance of the notice is to be made on him as the agent of such non-resident, the notice shall not be issued after the expiry of a period of two years from the end of the relevant assessment year

**150 Provision for cases where assessment is in pursuance of an order on appeal, etc**—(1) Notwithstanding anything contained in section 149, the notice under section 148 may be issued at any time for the purpose of making an assessment or reassessment or recomputation in consequence of or to



give effect to any finding or direction contained in an order passed by any authority in any proceeding under this Act by way of appeal, reference or revision

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(2) The provisions of sub section (1) shall not apply in any case where any such assessment, reassessment or recomputation as is referred to in that sub section relates to an assessment year in respect of which an assessment, reassessment or recomputation could not have been made at the time the order which was the subject-matter of the appeal, reference or revision, as the case may be, was made by reason of any other provision limiting the time within which any action for assessment, reassessment or recomputation may be taken

**151 Sanction for issue of notice —**(1) No notice shall be issued under section 148 after the expiry of eight years from the end of the relevant assessment year, unless the Board is satisfied on the reasons recorded by the Income tax Officer that it is a fit case for the issue of such notice

(2) No notice shall be issued under section 148 after the expiry of four years from the end of the relevant assessment year, unless the Commissioner is satisfied on the reasons recorded by the Income-tax Officer that it is a fit case for the issue of such notice

**152 Other provisions —**(1) In an assessment, reassessment or recomputation made under section 147, the tax shall be chargeable at the rate or rates at which it would have been charged had the income not escaped assessment

(2) Where an assessment is reopened in circumstances falling under clause (b) of section 147, the assessee may, if he has not impugned any part of the original assessment order for that year either under sections 246 to 248 or under section 264, claim that the proceedings under section 147 shall be dropped on his showing that he had been assessed on an amount or to a sum not lower than what he would be rightly liable for even if the income alleged to have escaped assessment had been taken into account, or the assessment or computation had been properly made

Provided that in so doing he shall not be entitled to reopen matters concluded by an order under section 154, 155, 260, 262 or 263

**153 Time limit for completion of assessments and reassessments —**(1) No order of assessment shall be made under section 143 or section 144 at any time after—

- (a) the expiry of four years from the end of the assessment year in which the income was first assessable, or
- (b) the expiry of eight years from the end of the assessment year in which the income was first assessable, in a case falling within clause (c) of sub-section (1) of section 271, or
- (c) the expiry of one year from the date of the filing of a return or a revised return under sub section (4) or sub section (5) of section 139,

whichever is latest

(2) No order of assessment, reassessment or recomputation shall be made under section 147—

- (a) where the assessment, reassessment or recomputation is to be made under clause (a) of that section, after the expiry of four years from the end of the assessment year in which the notice under section 148 was served,

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(b) where the assessment, reassessment or recomputation is to be made under clause (b) of that section, after—

(i) the expiry of four years from the end of the assessment year in which the income was first assessable, or

(ii) the expiry of one year from the date of service of the notice under section 148,

whichever is later

(3) The provisions of sub sections (1) and (2) shall not apply to the following classes of assessments, reassessments and recomputations which may be completed at any time—

(i) where a fresh assessment is made under section 146 ,

(ii) where the assessment, reassessment or recomputation is made on the assessee or any person in consequence of or to give effect to any finding or direction contained in an order under section 250, 254, 260, 262, 263 or 264 ,

(iii) where in the case of a firm, an assessment is made on a partner of the firm in consequence of an assessment made on the firm under section 147

*Explanation 1* —In computing the period of limitation for the purposes of this section, the time taken in reopening the whole or any part of the proceeding or in giving an opportunity to the assessee to be reheard under the proviso to section 129 or any period during which the assessment proceeding is stayed by an order or injunction of any court, shall be excluded

*Explanation 2.*—Where, by an order under section 250, 254, 260, 262, 263 or 264, any income is excluded from the total income of the assessee for an assessment year, then, an assessment of such income for another assessment year shall, for the purposes of section 150 and this section, be deemed to be one made in consequence of or to give effect to any finding or direction contained in the said order

*Explanation 3* —Where, by an order under section 250, 254, 260, 262, 263 or 264, any income is excluded from the total income of one person and held to be the income of another person, then, an assessment of such income on such other person shall, for the purposes of section 150 and this section, be deemed to be one made in consequence of or to give effect to any finding or direction contained in the said order, provided such other person was given an opportunity of being heard before the said order was passed

**154 Rectification of mistake** —(1) With a view to rectifying any mistake apparent from the record—

(a) the Income tax Officer may amend any order of assessment or of refund or any other order passed by him ,

(b) the Appellate Assistant Commissioner may amend any order passed by him in appeal under section 250 ,

(c) the Commissioner may amend any order passed by him in revision under section 263 or section 264

(2) Subject to the other provisions of this section, the authority concerned—

(a) may make an amendment under sub section (1) of its own motion, and

- (b) shall make such amendment for rectifying any such mistake which has been brought to its notice by the assessee, and where the authority concerned is the Appellate Assistant Commissioner, by the Income-tax Officer also

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(3) An amendment, which has the effect of enhancing an assessment or reducing a refund or otherwise increasing the liability of the assessee, shall not be made under this section unless the authority concerned has given notice to the assessee of its intention so to do and has allowed the assessee a reasonable opportunity of being heard

(4) Where an amendment is made under this section, an order shall be passed in writing by the Income-tax authority concerned

(5) Subject to the provisions of section 241, where any such amendment has the effect of reducing the assessment, the Income-tax Officer shall make any refund which may be due to such assessee

(6) Where any such amendment has the effect of enhancing the assessment or reducing a refund already made, the Income-tax Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be issued under section 156 and the provisions of this Act shall apply accordingly

(7) Save as otherwise provided in section 155 or sub-section (4) of section 186 no amendment under this section shall be made after the expiry of four years from the date of the order sought to be amended

**155 Other amendments**—(1) Where in respect of any completed assessment of a partner in a firm it is found—

(a) on the assessment or reassessment of the firm, or

(b) on any reduction or enhancement made in the income of the firm under this section, section 154, section 250, section 254, section 260, section 262, section 263 or section 264,

that the share of the partner in the income of the firm has not been included in the assessment of the partner or, if included, is not correct, the Income-tax Officer may amend the order of assessment of the partner with a view to the inclusion of the share in the assessment or the correction thereof, as the case may be, and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the date of the final order passed in the case of the firm

(2) Where in respect of any completed assessment of a member of an association of persons or of a body of individuals it is found—

(a) on the assessment or reassessment of the association or body, or

(b) on any reduction or enhancement made in the income of the association or body under this section, section 154, section 250, section 254, section 260, section 262, section 263 or section 264,

that the share of the member in the income of the association or body, as the case may be, has not been included in the assessment of the member or, if included, is not correct, the Income-tax Officer may amend the order of assessment of the member with a view to the inclusion of the share in the assessment or the correction thereof, as the case may be, and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the date of the final order passed in the case of the association or body, as the case may be

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(3) Where the excess profits tax or the business profits tax payable by an assessee has been modified in appeal, revision or any other proceeding, or where any excess profits tax has been assessed after the completion of the corresponding assessment for income-tax and in consequence thereof, it is necessary to amend the total income of the assessee chargeable to income-tax, the Income tax Officer may make the necessary amendment and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the date of the order making or modifying the assessment of such excess profits tax or business profits tax, as the case may be

*Explanation*—For the purposes of this sub section, where the assessee is a firm, the provisions of sub section (1) shall also apply as they apply to the amendment of the assessment of the partners of the firm

(4) Where as a result of proceedings initiated under section 147, a loss or depreciation has been recomputed and in consequence thereof it is necessary to recompute the total income of the assessee for the succeeding year or years to which the loss or depreciation allowance has been carried forward and set off under the provisions of sub section (1) of section 72, or sub section (2) of section 73, or sub section (1) of section 74, the Income tax Officer may proceed to recompute the total income in respect of such year or years and make the necessary amendment, and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub section (7) of that section being reckoned from the date of the order passed under section 147

(5) Where an allowance by way of development rebate has been made wholly or partly to an assessee in respect of a ship, machinery or plant installed after the 31st day of December, 1957, in any assessment year under section 33 or under the corresponding provisions of the Indian Income tax Act, 1922 (XI of 1922), and subsequently—

(i) at any time before the expiry of eight years from the end of the previous year in which the ship was acquired or the machinery or plant was installed, the ship, machinery or plant is sold or otherwise transferred by the assessee to any person other than the Government, a local authority, a corporation established by a Central, State or Provincial Act or a Government company as defined in section 617 of the Companies Act, 1956 (I of 1956), or in connection with any amalgamation or succession referred to in sub-section (3) or sub section (4) of section 33, or

(ii) at any time before the expiry of the eight years referred to in sub section (3) of section 34, the assessee utilises the amount credited to the reserve account under clause (a) of that sub section—

(a) for distribution by way of dividends or profits, or

(b) for remittance outside India as profits or for the creation of any asset outside India, or

(c) for any other purpose which is not a purpose of the business of the undertaking,

the development rebate originally allowed shall be deemed to have been wrongly allowed, and the Income tax Officer may, notwithstanding anything contained in this Act, recompute the total income of the assessee for the relevant previous year and make the necessary amendment, and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub section (7) of that section being reckoned from

the end of the previous year in which the sale or transfer took place or the money was so utilised

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(6) Where any such debt or part of debt as is referred to in clause (iii) of sub section (1) of section 36 is written off as irrecoverable in the accounts of the assessee for a previous year and the Income tax Officer is satisfied that such debt or part thereof became a bad debt in an earlier previous year not falling beyond a period of four previous years immediately preceding the previous year in which the debt or part is written off, the Income-tax Officer may, notwithstanding anything contained in this Act, allow such debt or part as a deduction for such earlier previous year, if the assessee accepts such a finding of the Income tax Officer, and recompute the total income of the assessee for such earlier previous year and make the necessary amendment, and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the end of the financial year in which the assessment relating to the previous year in which the debt is written off is made

(7) Where as a result of any proceeding under this Act, in the assessment for any year of a company in whose case an order under section 104 has been made for that year, it is necessary to recompute the distributable income of that company, the Income tax Officer may proceed to recompute the distributable income and determine the super-tax payable on the basis of such recomputation and make the necessary amendment, and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub section (7) of that section being reckoned from the date of the final order passed in the case of the company in respect of that proceeding

(8) Where in the assessment for any year a capital gain arising from the transfer of any such capital asset as is referred to in section 54 is charged to tax and within a period of one year after the date of the transfer the assessee purchases, or within two years from that date constructs, a house property for the purpose of his own residence, the Income-tax Officer shall amend the order of assessment so as to exclude the amount of the capital gain not chargeable to tax under the provisions of section 54, and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub section (7) of that section being reckoned from the date of the assessment

**156 Notice of demand** —When any tax, interest, penalty, fine or any other sum is payable in consequence of any order passed under this Act, the Income-tax Officer shall serve upon the assessee a notice of demand in the prescribed form specifying the sum so payable (Rr 15, 16, 38)

**157 Intimation of loss** —When, in the course of the assessment of the total income of any assessee, it is established that a loss has taken place which the assessee is entitled to have carried forward and set off under the provisions of sub section (1) of section 72, sub-section (2) of section 73 or sub-section (1) of section 74, the Income-tax Officer shall notify to the assessee by an order in writing the amount of the loss as computed by him for the purposes of sub-section (1) of section 72, sub section (2) of section 73 or sub section (1) of section 74

**158 Intimation of assessment of firm** —Whenever a registered firm is assessed, or an unregistered firm is assessed under the provisions of clause (b) of section 183, the Income-tax Officer shall notify to the firm by an order in writing the amount of its total income assessed and the apportionment thereof between the several partners

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## CHAPTER XV

### LIABILITY IN SPECIAL CASES

#### *A —Legal representatives*

**159 Legal representatives**—(1) Where a person dies, his legal representative shall be liable to pay any sum which the deceased would have been liable to pay if he had not died, in the like manner and to the same extent as the deceased

(2) For the purpose of making an assessment (including an assessment, reassessment or recomputation under section 147) of the income of the deceased and for the purpose of levying any sum in the hands of the legal representative in accordance with the provisions of sub section (1),—

(a) any proceeding taken against the deceased before his death shall be deemed to have been taken against the legal representative and may be continued against the legal representative from the stage at which it stood on the date of the death of the deceased,

(b) any proceeding which could have been taken against the deceased if he had survived, may be taken against the legal representative, and

(c) all the provisions of this Act shall apply accordingly

(3) The legal representative of the deceased shall, for the purposes of this Act, be deemed to be an assessee

(4) Every legal representative shall be personally liable for any tax payable by him in his capacity as legal representative if, while his liability for tax remains undischarged, he creates a charge on or disposes of or parts with any assets of the estate of the deceased, which are in, or may come into, his possession, but such liability shall be limited to the value of the asset so charged, disposed of or parted with

(5) The provisions of sub-section (2) of section 161, section 162 and section 167, shall, so far as may be and to the extent to which they are not inconsistent with the provisions of this section, apply in relation to a legal representative

(6) The liability of a legal representative under this section shall, subject to the provisions of sub section (4) and sub section (5), be limited to the extent to which the estate is capable of meeting the liability

#### *B —Representative assessee—general provisions*

**160 Representative assessee**—(1) For the purposes of this Act, "representative assessee" means—

- (i) in respect of the income of a non resident specified in clause (i) of sub section (1) of section 9, the agent of the non resident, including a person who is treated as an agent under section 163,
- (ii) in respect of the income of a minor, lunatic or idiot, the guardian or manager who is entitled to receive or is in receipt of such income on behalf of such minor, lunatic or idiot,
- (iii) in respect of income which the Court of Wards, the Administrator General, the Official Trustee or any receiver or manager (including

any person, whatever his designation, who in fact manages property on behalf of another) appointed by or under any order of a court receiver or is entitled to receive, on behalf or for the benefit of any person, such Court of Wards, Administrator-General, Official Trustee, receiver or manager, Div. 2  
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- (ii) in respect of income which a trustee appointed under a trust declared by a duly executed instrument in writing whether testamentary or otherwise (including any *Wakf deed* which is valid under the *Musliman Wakf Validating Act, 1913* (VI of 1913)) receiver or is entitled to receive on behalf or for the benefit of any person, such trustee or trustee

(2) Every representative assessee shall be deemed to be an assessee for the purposes of this Act

**161 Liability of representative assessee.**—(1) Every representative assessee, as regards the income in respect of which he is a representative assessee, shall be subject to the same duties, responsibilities and liabilities as if the income were income received by or accruing to or in favour of him beneficially, and shall be liable to assessment in his own name in respect of that income, but any such assessment shall be deemed to be made upon him in his representative capacity only, and the tax shall, subject to the other provisions contained in this Chapter, be levied upon and recovered from him in like manner and to the same extent as it would be leviable upon and recoverable from the person represented by him

(2) Where any person is, in respect of any income assessable under this Chapter in the capacity of a representative assessee, he shall not, in respect of that income, be assessed under any other provision of this Act

**162 Right of representative assessee to recover tax paid.**—(1) Every representative assessee who, as such, pays any sum under this Act, shall be entitled to recover the sum so paid from the person on whose behalf it is paid, or to retain out of any moneys that may be in his possession or may come to him in his representative capacity, an amount equal to the sum so paid

(2) Any representative assessee, or any person who apprehends that he may be assessed as a representative assessee, may retain out of any money payable by him to the person on whose behalf he is liable to pay tax (hereinafter in this section referred to as the principal), a sum equal to his estimated liability under this Chapter, and in the event of any disagreement between the principal and such representative assessee or person as to the amount to be so retained, such representative assessee or person may secure from the Income-tax Officer a certificate stating the amount to be so retained pending final settlement of the liability, and the certificate so obtained shall be his warrant for retaining that amount

(3) The amount recoverable from such representative assessee or person at the time of final settlement shall not exceed the amount specified in such certificate, except to the extent to which such representative assessee or person may at such time have in his hands additional assets of the principal

### *C—Representative assessee—special cases*

**163 Who may be regarded as agent.**—(1) For the purposes of this Act, "agent", in relation to a non-resident, includes any person in India—

- (a) who is employed by or on behalf of the non-resident, or
- (b) who has any business connection with the non-resident, or

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(c) from or through whom the non resident is in receipt of any income, whether directly or indirectly, or

(d) who is the trustee of the non resident, and includes also any other person who, whether a resident or non-resident, has acquired by means of a transfer, a capital asset in India

Provided that a broker in India who, in respect of any transactions, does not deal directly with or on behalf of a non-resident principal but deals with or through a non-resident broker shall not be deemed to be an agent under this section in respect of such transactions, if the following conditions are fulfilled, namely —

(i) the transactions are carried on in the ordinary course of business through the first-mentioned broker, and

(ii) the non-resident broker is carrying on such transactions in the ordinary course of his business and not as a principal

(2) No person shall be treated as the agent of a non resident unless he had had an opportunity of being heard by the Income tax Officer as to his liability to be treated as such

**164 Charge of tax where share of beneficiaries unknown** —Where any income in respect of which the persons mentioned in clauses (iii) and (iv) of sub section (1) of section 160 are liable as representative assessee or any part thereof, is not specifically receivable on behalf or for the benefit of any one person, or where the individual shares of the persons on whose behalf or for whose benefit such income or such part thereof is receivable (which persons are hereinafter in this section referred to as the beneficiaries) are indeterminate or unknown, tax shall be charged as if such income or such part thereof were the total income of an association of persons, or, where such income or such part thereof is actually received by a beneficiary, then at the rate or rates applicable to the total income or total world income of the beneficiary if such course would result in a benefit to the revenue

**165 Case where part of trust income is chargeable** —Where part only of the income of a trust is chargeable under this Act, that proportion only of the income receivable by a beneficiary from the trust which the part so chargeable bears to the whole income of the trust shall be deemed to have been derived from that part

#### *D —Representative assessee—miscellaneous provisions*

**166 Direct assessment or recovery not barred** —Nothing in the foregoing sections in this Chapter shall prevent either the direct assessment of the person on whose behalf or for whose benefit income therein referred to is receivable, or the recovery from such person of the tax payable in respect of such income

**167 Remedies against property in cases of representative assessee** —The Income tax Officer shall have the same remedies against all property of any kind vested in or under the control or management of any representative assessee as he would have against the property of any person liable to pay any tax, and in as full and ample a manner, whether the demand is raised against the representative assessee or against the beneficiary direct

#### *E —Executors*

**168 Executors** —(1) Subject as hereinafter provided, the income of the estate of a deceased person shall be chargeable to tax in the hands of the executor,—



- (a) if there is only one executor, then, as if the executor were an individual, or Div 2  
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- (b) if there are more executors than one, then, as if the executors were an association of persons,

and for the purposes of this Act, the executor shall be deemed to be resident or non-resident according as the deceased person was a resident or non-resident during the previous year in which his death took place

(2) The assessment of an executor under this section shall be made separately from any assessment that may be made on him in respect of his own income

(3) Separate assessments shall be made under this section on the total income of each completed previous year or part thereof as is included in the period from the date of the death to the date of complete distribution to the beneficiaries of the estate according to their several interests

(4) In computing the total income of any previous year under this section, any income of the estate of that previous year distributed to, or applied to the benefit of, any specific legatee of the estate during that previous year shall be excluded, but the income so excluded shall be included in the total income of the previous year of such specific legatee

*Explanation*—In this section, “executor” includes an administrator or other person administering the estate of a deceased person

**169 Right of executor to recover tax paid**—The provisions of section 162 shall, so far as may be, apply in the case of an executor in respect of tax paid or payable by him as they apply in the case of a representative assessee

#### *F—Succession to business or profession*

**170 Succession to business otherwise than on death**—(1) Where a person carrying on any business or profession (such person hereinafter in this section being referred to as the predecessor) has been succeeded therein by any other person (hereinafter in this section referred to as the successor) who continues to carry on that business or profession,—

- (a) the predecessor shall be assessed in respect of the income of the previous year in which the succession took place up to the date of succession,
- (b) the successor shall be assessed in respect of the income of the previous year after the date of succession

(2) Notwithstanding anything contained in sub-section (1), when the predecessor cannot be found, the assessment of the income of the previous year in which the succession took place up to the date of succession and of the previous year preceding that year shall be made on the successor in like manner and to the same extent as it would have been made on the predecessor, and all the provisions of this Act shall, so far as may be, apply accordingly

(3) When any sum payable under this section in respect of the income of such business or profession for the previous year in which the succession took place up to the date of succession or for the previous year preceding that year, assessed on the predecessor, cannot be recovered from him, the Income-tax Officer shall record a finding to that effect and the sum payable by the predecessor shall thereafter be payable by and recoverable from the successor, and the successor shall be entitled to recover from the predecessor any sum so paid

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(4) Where any business or profession carried on by a Hindu undivided family is succeeded to, and simultaneously with the succession or after the succession there has been a partition of the joint family property between the members or groups of members, the tax due in respect of the income of the business or profession succeeded to, up to the date of succession, shall be assessed and recovered in the manner provided in section 171, but without prejudice to the provisions of this section

*Explanation*—For the purposes of this section, “income” includes any gain accruing from the transfer, in any manner whatsoever, of the business or profession as a result of the succession

#### G —Partition

**171 Assessment after partition of a Hindu undivided family**—(1) A Hindu family hitherto assessed as undivided shall be deemed for the purposes of this Act to continue to be a Hindu undivided family, except where and in so far as a finding of partition has been given under this section in respect of the Hindu undivided family

(2) Where, at the time of making an assessment under section 143 or section 144, it is claimed by or on behalf of any member of a Hindu family assessed as undivided that a partition, whether total or partial, has taken place among the members of such family, the Income-tax Officer shall make an inquiry thereinto after giving notice of the inquiry to all the members of the family

(3) On the completion of the inquiry, the Income-tax Officer shall record a finding as to whether there has been a total or partial partition of the joint family property, and, if there has been such a partition, the date on which it has taken place

(4) Where a finding of total or partial partition has been recorded by the Income-tax Officer under this section, and the partition took place during the previous year,—

- (a) the total income of the joint family in respect of the period up to the date of partition shall be assessed as if no partition had taken place, and
- (b) each member or group of members shall, in addition to any tax for which he or it may be separately liable and notwithstanding anything contained in clause (2) of section 10, be jointly and severally liable for the tax on the income so assessed

(5) Where a finding of total or partial partition has been recorded by the Income tax Officer under this section, and the partition took place after the expiry of the previous year, the total income of the previous year of the joint family shall be assessed as if no partition had taken place, and the provisions of clause (b) of sub-section (4) shall, so far as may be, apply to the case

(6) Notwithstanding anything contained in this section, if the Income tax Officer finds after completion of the assessment of a Hindu undivided family that the family has already effected a partition, whether total or partial, the Income tax Officer shall proceed to recover the tax from every person who was a member of the family before the partition, and every such person shall be jointly and severally liable for the tax on the income so assessed

(7) For the purposes of this section, the several liability of any member or group of members thereunder shall be computed according to the portion

of the joint family property allotted to him or it at the partition, whether total or partial

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Ss  
171, 1/

(8) The provisions of this section shall, so far as may be, apply in relation to the levy and collection of any penalty, interest, fine or other sum in respect of any period up to the date of the partition, whether total or partial, of a Hindu undivided family as they apply in relation to the levy and collection of tax in respect of any such period

*Explanation* —In this section,—

(a) “ partition ” means—

(i) where the property admits of a physical division, a physical division of the property, but a physical division of the income without a physical division of the property producing the income shall not be deemed to be a partition, or

(ii) where the property does not admit of a physical division, then such division as the property admits of, but a mere severance of status shall not be deemed to be a partition,

(b) “ partial partition ” means a partition which is partial as regards the persons constituting the Hindu undivided family, or the properties belonging to the Hindu undivided family, or both

*H —Profits of non-residents from occasional shipping business*

**172 Shipping business of non-residents** —(1) The provisions of this section shall, notwithstanding anything contained in the other provisions of this Act, apply for the purpose of the levy and recovery of tax in the case of any ship, belonging to or chartered by a non-resident, which carries passengers, live-stock, mail or goods shipped at a port in India, unless the Income-tax Officer is satisfied that there is an agent of the non-resident from whom the tax will be recoverable under the other provisions of this Act

(2) Where such a ship carries passengers, live stock, mail or goods shipped at a port in India, one sixth of the amount paid or payable on account of such carriage to the owner or the charterer or to any person on his behalf, whether that amount is paid or payable in or out of India, shall be deemed to be income accruing in India to the owner or charterer on account of such carriage

(3) Before the departure from any port in India of any such ship, the master of the ship shall prepare and furnish to the Income-tax Officer a return of the full amount paid or payable to the owner or charterer or any person on his behalf, on account of the carriage of all passengers, live stock, mail or goods shipped at that port since the last arrival of the ship thereat

Provided that where the Income-tax Officer is satisfied that it is not possible for the master of the ship to furnish the return required by this sub-section before the departure of the ship from the port and provided the master of the ship has made satisfactory arrangements for the filing of the return and payment of the tax by any other person on his behalf, the Income-tax Officer may, if the return is filed within thirty days of the departure of the ship, deem the filing of the return by the person so authorised by the master as sufficient compliance with this sub section

(4) On receipt of the return, the Income-tax Officer shall assess the income referred to in sub section (2) and determine the sum payable as tax thereon at the rate or rates for the time being applicable to the total income

Div 2 of a company which has not made the arrangements referred to in section 194  
Ss and such sum shall be payable by the master of the ship

172-174 (5) For the purpose of determining the tax payable under sub section (4), the Income tax Officer may call for such accounts or documents as he may require

(6) A port clearance shall not be granted to the ship until the Collector of Customs, or other officer duly authorised to grant the same, is satisfied that the tax assessable under this section has been duly paid or that satisfactory arrangements have been made for the payment thereof

(7) Nothing in this section shall be deemed to prevent the owner or charterer of a ship from claiming before the expiry of the assessment year relevant to the previous year in which the date of departure of the ship from the Indian port falls, that an assessment be made of his total income of the previous year and the tax payable on the basis thereof be determined in accordance with the other provisions of this Act, and if he so claims, any payment made under this section in respect of the passengers, live stock, mail or goods shipped at Indian ports during that previous year shall be treated as a payment in advance of the tax leviable for that assessment year, and the difference between the sum so paid and the amount of tax found payable by him on such assessment shall be paid by him or refunded to him, as the case may be

### *I —Recovery of tax in respect of non residents*

173 Recovery of tax in respect of non resident from his assets —Without prejudice to the provisions of sub section (1) of section 161 or of section 167, where the person entitled to the income referred to in clause (1) of sub section (1) of section 9 is a non resident, the tax chargeable thereon, whether in his name or in the name of his agent who is liable as a representative assessee, may be recovered by deduction under any of the provisions of Chapter XVII B and any arrears of tax may be recovered also in accordance with the provisions of this Act from any assets of the non-resident which are, or may at any time come, within India

### *J —Persons leaving India*

174 Assessment of persons leaving India —(1) Notwithstanding anything contained in section 4, when it appears to the Income tax Officer that any individual may leave India during the current assessment year or shortly after its expiry and that he has no present intention of returning to India, the total income of such individual for the period from the expiry of the previous year for that assessment year up to the probable date of his departure from India shall be chargeable to tax in that assessment year

(2) The total income of each completed previous year or part of any previous year included in such period shall be chargeable to tax at the rate or rates in force in that assessment year, and separate assessments shall be made in respect of each such completed previous year or part of any previous year

(3) The Income-tax Officer may estimate the income of such individual for such period or any part thereof, where it cannot be readily determined in the manner provided in this Act

(4) For the purpose of making an assessment under sub-section (1), the Income tax Officer may serve a notice upon such individual requiring him to furnish, within such time, not being less than seven days, as may be specified

in the notice, a return in the same form and verified in the same manner as a return under sub-section (2) of section 139, setting forth his total income for each completed previous year comprised in the period referred to in sub-section (1) and his estimated total income for any part of the previous year comprised in that period, and the provisions of this Act shall, so far as may be, and subject to the provisions of this section, apply as if the notice were a notice issued under sub-section (2) of section 139

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(3) The tax chargeable under this section shall be in addition to the tax, if any, chargeable under any other provision of this Act

(6) Where the provisions of sub-section (1) are applicable, any notice issued by the Income tax Officer under sub-section (2) of section 139 or sub-section (1) of section 148 in respect of any tax chargeable under any other provision of this Act may, notwithstanding anything contained in sub-section (2) of section 139 or sub-section (1) of section 148, as the case may be, require the furnishing of the return by such individual within such period, not being less than seven days, as the Income tax Officer may think proper

#### *K —Persons trying to alienate their assets*

**175 Assessment of persons likely to transfer property to avoid tax.**—Notwithstanding anything contained in section 4, if it appears to the Income tax Officer during any current assessment year that any person is likely to charge, sell, transfer, dispose of or otherwise part with any of his assets with a view to avoiding payment of any liability under the provisions of this Act, the total income of such person for the period from the expiry of the previous year for that assessment year to the date when the Income tax Officer commences proceedings under this section shall be chargeable to tax in that assessment year, and the provisions of sub-sections (2), (3), (4), (5) and (6) of section 174 shall, so far as may be, apply to any proceedings in the case of any such person as they apply in the case of persons leaving India

#### *L —Discontinuance of business, or dissolution*

**176 Discontinued business**—(1) Notwithstanding anything contained in section 4, where any business or profession is discontinued in any assessment year, the income of the period from the expiry of the previous year for that assessment year up to the date of such discontinuance may, at the discretion of the Income tax Officer, be charged to tax in that assessment year

(2) The total income of each completed previous year or part of any previous year included in such period shall be chargeable to tax at the rate or rates in force in that assessment year, and separate assessments shall be made in respect of each such completed previous year or part of any previous year

(3) Any person discontinuing any business or profession shall give to the Income tax Officer notice of such discontinuance within fifteen days thereof

(4) Where any profession is discontinued in any year on account of the cessation of the profession by, or the retirement or death of, the person carrying on the profession, any sum received after the discontinuance shall be deemed to be the income of the recipient and charged to tax accordingly in the year of receipt, if such sum would have been included in the total income of the aforesaid person had it been received before such discontinuance

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(5) Where an assessment is to be made under the provisions of this section, the Income tax Officer may serve on the person whose income is to be assessed or, in the case of a firm, on any person who was a partner of such firm at the time of its discontinuance or, in the case of a company, on the principal officer thereof, a notice containing all or any of the requirements which may be included in a notice under sub section (2) of section 139 and the provisions of this Act shall, so far as may be, apply accordingly as if the notice were a notice issued under sub section (2) of section 139

(6) The tax chargeable under this section shall be in addition to the tax, if any, chargeable under any other provision of this Act

(7) Where the provisions of sub section (1) are applicable, any notice issued by the Income tax Officer under sub section (2) of section 139 or sub-section (1) of section 148 in respect of any tax chargeable under any other provisions of this Act may, notwithstanding anything contained in sub section (2) of section 139 or sub section (1) of section 148, as the case may be, require the furnishing of the return by the person to whom the aforesaid notices are issued within such period, not being less than seven days, as the Income tax Officer may think proper

**177 Association dissolved or business discontinued**—(1) Where any business or profession carried on by an association of persons has been discontinued or where an association of persons is dissolved, the Income tax Officer shall make an assessment of the total income of the association of persons as if no such discontinuance or dissolution had taken place, and all the provisions of this Act, including the provisions relating to the levy of a penalty or any other sum chargeable under any provision of this Act shall apply, so far as may be, to such assessment

(2) Without prejudice to the generality of the foregoing sub section, if the Income tax Officer or the Appellate Assistant Commissioner in the course of any proceeding under this Act in respect of any such association of persons as is referred to in that sub section is satisfied that the association of persons was guilty of any of the acts specified in Chapter XXI, he may impose or direct the imposition of a penalty in accordance with the provisions of that Chapter

(3) Every person who was at the time of such discontinuance or dissolution a member of the association of persons, and the legal representative of any such person who is deceased, shall be jointly and severally liable for the amount of tax, penalty or other sum payable, and all the provisions of this Act, so far as may be, shall apply to any such assessment or imposition of penalty or other sum

(4) Where such discontinuance or dissolution takes place after any proceedings in respect of an assessment year have commenced, the proceedings may be continued against the persons referred to in sub-section (3) from the stage at which the proceedings stood at the time of such discontinuance or dissolution, and all the provisions of this Act shall, so far as may be, apply accordingly

(5) Nothing in this section shall affect the provisions of sub section (6) of section 159

**178 Company in liquidation**—(1) Every person—

(a) who is the liquidator of any company which is being wound up, whether under the orders of a court or otherwise, or

(b) who has been appointed the receiver of any assets of a company, (hereinafter referred to as the liquidator) shall, within thirty days after he

has become such liquidator, give notice of his appointment as such to the Income tax Officer who is entitled to assess the income of the company

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(2) The Income tax Officer shall, after making such enquiries or calling for such information as he may deem fit, notify to the liquidator within three months from the date on which he receives notice of the appointment of the liquidator the amount which, in the opinion of the Income tax Officer, would be sufficient to provide for any tax which is then, or is likely thereafter to become, payable by the company

(3) On being notified by the Income tax Officer under sub-section (2), the liquidator shall set aside an amount equal to the amount so notified and until he so sets aside such amount, he shall not part with any of the assets of the company or the properties in his hands except for the purpose aforesaid or for making any payment to secured creditors whose debts are entitled under law to priority of payment over debts due to Government on the date of liquidation

(4) The liquidator shall, if he has not set aside the amount notified under sub-section (2), be personally liable to the extent of that amount for the payment of the tax on behalf of the company

(5) Where there are more liquidators than one, the obligations and liabilities attached to the liquidator under this section shall attach to all the liquidators jointly and severally

(6) The provisions of this section shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force

#### *M —Private company in liquidation*

**179 Liability of directors of private company in liquidation** —Notwithstanding anything contained in the Companies Act, 1956 (I of 1956), when any private company is wound up after the commencement of this Act, and any tax assessed on the company, whether before or in the course of or after its liquidation, in respect of any income of any previous year cannot be recovered, then, every person who was a director of the private company at any time during the relevant previous year shall be jointly and severally liable for the payment of such tax unless he proves that the non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company

#### *N —Special provisions for certain kinds of income*

**180. Royalties or copyright fees for literary or artistic work** —Where the time taken by the author of a literary or artistic work in the making thereof is more than twelve months, the amount received or receivable by him during any previous year on account of any lump sum consideration for the assignment or grant of any of his interests in the copyright of that work or of royalties or copyright fees (whether receivable in lump sum or otherwise), in respect of that work, shall, if he so claims, be allocated for purposes of assessment in such manner and to such period as may be prescribed

(R 9)

*Explanation* —For the purposes of this section, the expression "author" includes a joint author, and the expression "lump sum", in regard to royalties or copyright fees, includes an advance payment on account of such royalties or copyright fees which is not returnable

Div 2

Ss

181-183

*O —Liability of State Governments*

181 Interest on tax free securities of a State Government —Income tax shall be payable by a State Government on the interest on any security issued by it tax free

## CHAPTER XVI

## SPECIAL PROVISIONS APPLICABLE TO FIRMS

*A —Assessment of firms*

182 Assessment of registered firms —(1) Notwithstanding anything contained in sections 143 and 144 and subject to the provisions of sub section (3), in the case of a registered firm, after assessing the total income of the firm,—

- (i) the income-tax payable by the firm itself shall be determined, and
- (ii) the share of each partner in the income of the firm shall be included in his total income and assessed to tax accordingly

(2) If such share of any partner is a loss it shall be set off against his other income or carried forward and set off in accordance with the provisions of sections 70 to 75

(3) When any of the partners of a registered firm is a non resident, the tax on his share in the income of the firm shall be assessed on the firm at the rate or rates which would be applicable if it were assessed on him personally, and the tax so assessed shall be paid by the firm

(4) A registered firm may retain out of the share of each partner in the income of the firm a sum not exceeding thirty per cent thereof until such time as the tax which may be levied on the partner in respect of that share is paid by him, and where the tax so levied cannot be recovered from the partner, whether wholly or in part, the firm shall be liable to pay the tax, to the extent of the amount retained or could have been so retained

183 Assessment of unregistered firms —In the case of an unregistered firm, the Income tax Officer—

- (a) may determine the tax payable by the firm itself on the basis of the total income of the firm, or
- (b) if, in his opinion, the aggregate amount of the tax payable by the partners if the firm were treated as a registered firm would be greater than the aggregate amount of the tax which would be payable by the firm under clause (a) and the tax which would be payable by the partners individually, may proceed to make the assessment under clause (ii) of sub-section (1) of section 182 as if the firm were a registered firm, and where the procedure specified in this clause is applied to any unregistered firm, the provisions of sub-sections (2), (3) and (4) of section 182 shall apply thereto as they apply in the case of a registered firm



*B —Registration of firms*

Div 2  
S 184  
(Rr 22  
24)

**184 Application for registration**—(1) An application for registration of a firm for the purposes of this Act may be made to the Income tax Officer on behalf of any firm if—

- (i) the partnership is evidenced by an instrument, and
- (ii) the individual shares of the partners are specified in that instrument

(2) Such application may, subject to the provisions of this section, be made either during the existence of the firm or after its dissolution

(3) The application shall be made to the Income-tax Officer having jurisdiction to assess the firm, and shall be signed—

- (a) by all the partners (not being minors) personally, or
- (b) in the case of a dissolved firm, by all persons (not being minors) who were partners in the firm immediately before its dissolution and by the legal representative of any such partner who is deceased

*Explanation*—In the case of any partner who is absent from India or is a lunatic or an idiot, the application may be signed by any person duly authorised by him in this behalf, or, as the case may be, by a person entitled under law to represent him

(4) The application shall be made before the end of the previous year for the assessment year in respect of which registration is sought

Provided that the Income-tax Officer may entertain an application made after the end of the previous year, if he is satisfied that the firm was prevented by sufficient cause from making the application before the end of the previous year

(5) The application shall be accompanied by the original instrument evidencing the partnership, together with a copy thereof

Provided that if the Income-tax Officer is satisfied that for sufficient reason the original instrument cannot conveniently be produced, he may accept a copy of it certified in writing by all the partners (not being minors), or, where the application is made after the dissolution of the firm, by all the persons referred to in clause (b) of sub section (3), to be a correct copy, or a certified copy of the instrument, and in such cases the application shall be accompanied by a duplicate copy of the original instrument

(6) The application shall be made in the prescribed form and shall contain the prescribed particulars

(7) Where registration is granted to any firm for any assessment year, it shall have effect for every subsequent assessment year

Provided that—

(i) there is no change in the constitution of the firm or the shares of the partners as evidenced by the instrument of partnership on the basis of which the registration was granted, and

(ii) the firm furnishes, along with its return of income for the assessment year concerned, a declaration to that effect, in the prescribed form and verified in the prescribed manner

(8) Where any such change has taken place in the previous year, the firm shall apply for fresh registration for the assessment year concerned in accordance with the provisions of this section

**Div 2**      **185 Procedure on receipt of application** —(1) On receipt of an application  
**Ss**      for the registration of a firm, the Income tax Officer shall enquire into the  
**185, 186** genuineness of the firm and its constitution as specified in the instrument of  
 partnership, and—

(a) if he is satisfied that there is or was during the previous year in existence a genuine firm with the constitution so specified, he shall pass an order in writing registering the firm for the assessment year,

(b) if he is not so satisfied, he shall pass an order in writing refusing to register the firm

(2) The Income tax Officer shall not reject an application for registration merely on the ground that the application is not in order, but shall intimate the defect to the firm and give it an opportunity to rectify the defect in the application within a period of one month from the date of such intimation

(3) If the defect is not rectified within such time, the Income tax Officer may reject the application

**(R 25)**      (4) Where a firm is registered for any assessment year, the Income tax Officer shall record a certificate on the instrument of partnership or on the certified copy submitted in lieu of the original instrument, as the case may be, to the effect that the firm has been registered under this Act, for that assessment year, and where a declaration under sub section (7) of section 184 is furnished by the firm, for the relevant subsequent assessment year

(5) Notwithstanding anything contained in this section, where, in respect of any assessment year, there is, on the part of a firm, any such failure as is mentioned in section 144, the Income-tax Officer may refuse to register the firm for the assessment year

**186 Cancellation of registration** —(1) If, where a firm has been registered, or its registration has effect under sub section (7) of section 184 for an assessment year, the Income tax Officer is of opinion that there was during the previous year no genuine firm in existence as registered, he may, after giving the firm a reasonable opportunity of being heard and with the previous approval of the Inspecting Assistant Commissioner, cancel the registration of the firm for that assessment year

Provided that no such cancellation shall be made after the expiry of eight years from the end of the assessment year in respect of which registration has been granted or has effect

(2) If, where a firm has been registered or its registration has effect under sub section (7) of section 184 for any assessment year, there is, on the part of the firm, any such failure in respect of the assessment year as is mentioned in section 144, the Income tax Officer may cancel the registration of the firm for the assessment year, after giving the firm not less than fourteen days' notice intimating his intention to cancel its registration and after giving it a reasonable opportunity of being heard

(3) Where the registration of a firm is cancelled for any assessment year, the Income-tax Officer shall amend the assessments of the firm and its partners for that assessment year on the footing that the firm is an unregistered firm

(4) The provisions of section 154 shall, so far as may be, apply to the amendments of the assessments of the firm and its partners under sub section (3) of this section, the period of four years specified in sub-section (7) of that section being reckoned from the date of the order cancelling the registration

*C—Changes in constitution, succession and dissolution*Div 2  
Ss  
187-189

**187. Change in constitution of a firm**—(1) Where at the time of making an assessment under section 143 or section 144 it is found that a change has occurred in the constitution of a firm, the assessment shall be made on the firm as constituted at the time of making the assessment

Provided that—

- (i) the income of the previous year shall, for the purposes of inclusion in the total incomes of the partners, be apportioned between the partners who, in such previous year, were entitled to receive the same, and
  - (ii) when the tax assessed upon a partner cannot be recovered from him, it shall be recovered from the firm as constituted at the time of making the assessment
- (2) For the purposes of this section, there is a change in the constitution of the firm—
- (a) if one or more of the partners cease to be partners or one or more new partners are admitted, in such circumstances that one or more of the persons who were partners of the firm before the change continue as partner or partners after the change, or
  - (b) where all the partners continue with a change in their respective shares or in the shares of some of them

**188 Succession of one firm by another firm**—Where a firm carrying on a business or profession is succeeded by another firm, and the case is not one covered by section 187, separate assessments shall be made on the predecessor firm and the successor firm in accordance with the provisions of section 170

**189 Firm dissolved or business discontinued**—(1) Where any business or profession carried on by a firm has been discontinued or where a firm is dissolved, the Income-tax Officer shall make an assessment of the total income of the firm as if no such discontinuance or dissolution had taken place, and all the provisions of this Act, including the provisions relating to the levy of a penalty or any other sum chargeable under any provision of this Act, shall apply, so far as may be, to such assessment

(2) Without prejudice to the generality of the foregoing sub-section, if the Income-tax Officer or the Appellate Assistant Commissioner in the course of any proceeding under this Act in respect of any such firm as is referred to in that sub section is satisfied that the firm was guilty of any of the acts specified in Chapter XXI he may impose or direct the imposition of a penalty in accordance with the provisions of that Chapter

(3) Every person who was at the time of such discontinuance or dissolution a partner of the firm, and the legal representative of any such person who is deceased, shall be jointly and severally liable for the amount of tax, penalty or other sum payable, and all the provisions of this Act, so far as may be, shall apply to any such assessment or imposition of penalty or other sum

(4) Where such discontinuance or dissolution takes place after any proceedings in respect of an assessment year have commenced, the proceedings may be continued against the persons referred to in sub-section (3) from the stage at which the proceedings stood at the time of such discontinuance or

- Div 2 dissolution, and all the provisions of this Act shall, so far as may be, apply  
 Ss accordingly  
 189-192 (5) Nothing in this section shall affect the provisions of sub-section (6)  
 of section 159

## CHAPTER XVII

### COLLECTION AND RECOVERY OF TAX

#### *A —General*

190 Deduction at source and advance payment —(1) Notwithstanding that the regular assessment in respect of any income is to be made in a later assessment year, the tax on such income shall be payable by deduction at source or by advance payment, as the case may be, in accordance with the provisions of this Chapter

(2) Nothing in this section shall prejudice the charge of tax on such income under the provisions of sub-section (1) of section 4

191 Direct payment —(1) In the case of income in respect of which provision is not made under this Chapter for deducting income-tax at the time of payment, and in any case where income-tax has not been deducted in accordance with the provisions of this Chapter, income tax shall be payable by the assessee direct

(2) Save as provided in this Chapter, super-tax shall be payable by the assessee direct

#### *B —Deduction at source*

(Rr 32,  
34)

192 Salary.—(1) Any person responsible for paying any income chargeable under the head "Salaries" shall, at the time of payment, deduct income-tax and super-tax on the amount payable at the average rate of income tax and average rate of super-tax respectively computed on the basis of the rates of tax in force for the financial year in which the payment is made, on the estimated income of the assessee under this head for that financial year

(2) Any person responsible for paying any income chargeable under the head "Salaries" to a non-resident, not being a citizen of India in receipt of salary from the Government for rendering service outside India, shall, at the time of payment, deduct tax at the rates in force on the estimated income of the assessee under this head for the financial year

(3) The person responsible for making the payment referred to in sub-section (1) or sub-section (2) may, at the time of making any deduction, increase or reduce the amount to be deducted under this section for the purpose of adjusting any excess or deficiency arising out of any previous deduction or failure to deduct during the financial year

(4) The trustees of a recognised provident fund, or any person authorised by the regulations of the fund to make payment of accumulated balances due to employees shall, in cases where sub-rule (1) of rule 9 of Part A of the Fourth Schedule applies, at the time an accumulated balance due to an employee is paid, make therefrom the deduction provided in rule 10 of Part A of the Fourth Schedule

33)

(5) Where any contribution made by an employer, including interest on such contributions, if any, in an approved superannuation fund is paid

to the employee, income-tax and super-tax on the amount so paid shall be deducted by the trustees of the fund to the extent provided in rule 6 of Part B of the Fourth Schedule Div 2  
Ss.  
192-195

(6) For the purposes of deduction of tax on salary payable in foreign currency, the value in rupees of such salary shall be calculated at the prescribed rate of exchange (R 26)

*Explanation* —In sub-section (2), and in sections 193, 194, 195 and 197, the expression "rates in force" means the rate or rates specified for the purpose of deduction by the Finance Act of the year in which such deduction is required to be made

**193 Interest on securities** —The person responsible for paying any income chargeable under the head "Interest on securities" shall, at the time of payment, deduct income-tax and super-tax at the rates in force on the amount of the interest payable (R. 37)

\*[Provided that no tax shall be deducted from any interest payable on 4½ per cent National Defence Bonds, 1972, or 6½ per cent Gold Bonds, 1977, where any such Bonds are held by an individual, not being a non-resident, and in the case of the Gold Bonds, the holder thereof makes a declaration in writing before the person responsible for paying the interest that the total nominal value of the Gold Bonds held by him including the Gold Bonds, if any, held on his behalf by any other person did not exceed ten thousand rupees at any time during the period to which the interest relates ]

**194 Dividends** —The principal officer of an Indian company or a company which has made the prescribed arrangements for the declaration and payment of dividends (including dividends on preference shares) within India, shall, before making any payment in cash or before issuing any cheque or warrant in respect of any dividend or before making any distribution or payment to a shareholder of any dividend within the meaning of sub clause (a) or sub clause (b) or sub-clause (c) or sub clause (d) or sub clause (e) of clause (22) of section 2, deduct from the amount of such dividend, income-tax and super-tax at the rates in force (Rr. 27,  
37)

Provided that where in the case of any shareholder, not being a company, the Income-tax Officer gives a certificate in writing in the prescribed manner that to the best of his belief the total income or the total world income of the shareholder will be less than the minimum liable to income-tax, the person responsible for paying any dividend to the shareholder shall so long as the certificate is in force pay the dividend without any deduction (Rr 28,  
29)

**195 Other sums** —(1) Any person responsible for paying to a non-resident, not being a company, or to a company which is neither an Indian company nor a company which has made the prescribed arrangements for the declaration and payment of dividends within India, any interest, not being "Interest on securities", or any other sum, not being dividends, chargeable under the provisions of this Act, shall, at the time of payment, unless he is himself liable to pay any income-tax and super-tax thereon as an agent, deduct income tax and super-tax thereon at the rates in force (Rr 27,  
37)

Provided that nothing in this sub-section shall apply to any payment made in the course of transactions in respect of which a person responsible for the payment is deemed under the proviso to sub section (1) of section 163 not to be an agent of the payee

\* Inserted by s 4 of the Taxation Laws (Amendment) Act, 1962 (64 of 1962)

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(2) Where the person responsible for paying any such sum chargeable under this Act (other than interest including interest on securities, dividend and salary) to a non resident consider that the whole of such sum would not be income chargeable in the case of the recipient, he may make an application to the Income tax Officer to determine, by general or special order, the appropriate proportion of such sum so chargeable, and upon such determination, tax shall be deducted under sub section (1) only on that proportion of the sum which is so chargeable

**196 Interest or dividend payable to Government or the Reserve Bank —** Notwithstanding anything contained in sections 192 to 195, no deduction of tax shall be made on any interest or dividend payable to the Government or to the Reserve Bank of India in respect of any securities or shares owned by it or in which it has full beneficial interest

(Rr 28,  
29)

**197 Certificate for deduction at lower rate —**(1) Where, in the case of any income of any person other than a company—

(a) income tax or super tax is required to be deducted at the time of payment at the rates in force under the provisions of sections 192, 193 and 195,

(b) being a non resident, super tax is required to be deducted at the time of payment at the rates in force under the provisions of section 194,

the Income tax Officer is satisfied that the total income or the total world income of the recipient justifies the deduction of income tax or super tax at any lower rates or no deduction of income tax or super-tax, as the case may be, the Income tax Officer shall, on an application made by the assessee in this behalf, give to him such certificate as may be appropriate

(2) Where any such certificate is given, the person responsible for paying the income shall, until such certificate is cancelled by the Income tax Officer, deduct income tax and super-tax at the rates specified in such certificate or deduct no tax, as the case may be

(3) Where the principal officer of a company considers that, by reason of the provisions of sections 84 and 101, no tax will be payable by the recipient on the whole or any portion of the dividend referred to in section 85 and sub section (2) of section 101, he may, before paying the dividend to the shareholder or issuing any cheque or warrant in respect thereof, make an application to the Income tax Officer to determine the appropriate proportion of the dividend on which tax is not payable by the recipient under the provisions of sections 85 and 101, and on such determination by the Income tax Officer no tax shall be deducted on such proportionate amount

**198 Tax deducted is income received —**All sums deducted in accordance with the provisions of sections 192 to 195 shall, for the purpose of computing the income of an assessee, be deemed to be income received

**199 Credit for tax deducted —**Any deduction made in accordance with the provisions of sections 192 to 195 and paid to the Central Government shall be treated as a payment of income tax or super-tax, as the case may be, on behalf of the person from whose income the deduction was made, or of the owner of the security or of the shareholder, as the case may be, and credit shall be given to him for the amount so deducted on the production of the certificate furnished under section 203 in the assessment, if any, made for the immediately following assessment year under this Act

Provided that where such person or owner or shareholder is a person whose income is included under the provisions of section 60, section 61, section 64, section 93 or section 94 in the total income of another person, the

payment shall be deemed to have been made on behalf of, and the credit shall be given to, such other person Div. 2  
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Provided further that where any security or share in a company is owned jointly by two or more persons not constituting a partnership, credit in respect of the tax deducted may be given to each such person in the same proportion in which the interest on such security or dividend on such share has been included in his total income

**200 Duty of person deducting tax**—Any person deducting any sum in accordance with the provisions of sections 192 to 195 shall pay within the prescribed time, the sum so deducted to the credit of the Central Government or as the Board directs (R. 30)

**201 Consequences of failure to deduct or pay**—(1) If any such person and in the cases referred to in section 194, the principal officer and the company of which he is the principal officer does not deduct or after deducting fails to pay the tax as required by or under this Act, he or it shall, without prejudice to any other consequences which he or it may incur, be deemed to be an assessee in default in respect of the tax

Provided that no penalty shall be charged under section 221 from such person, principal officer or company unless the Income tax Officer is satisfied that such person or principal officer or company, as the case may be, has wilfully failed to deduct and pay the tax

(2) Where the tax has not been paid as aforesaid after it is deducted, it shall be a charge upon all the assets of the person, or the company, as the case may be, referred to in sub-section (1)

**202 Deduction only one mode of recovery**—The power to levy tax by deduction under sections 192 to 195 shall be without prejudice to any other mode of recovery

**203 Certificate for tax deducted**—Every person deducting income-tax or super tax in accordance with the provisions of sections 192 to 195 shall, at the time of payment of the sum, or, as the case may be, at the time of issue of a cheque or warrant for payment of any dividend to a shareholder, furnish to the person to whom such payment is made, or the cheque or warrant is issued, a certificate to the effect that income-tax or super-tax has been deducted, and specifying the amount so deducted, the rate at which the tax has been deducted and such other particulars as may be prescribed (R. 31)

**204 Meaning of "person responsible for paying"**—For the purposes of sections 192 to 203 and section 285, the expression "person responsible for paying" means—

- (i) in the case of payments of income chargeable under the head "Salaries", other than payments by the Central Government or the Government of a State, the employer himself or, if the employer is a company, the company itself, including the principal officer thereof,
- (ii) in the case of payments of income chargeable under the head "Interest on securities", other than payments made by or on behalf of the Central Government or the Government of a State, the local authority, corporation or company, including the principal officer thereof,
- (iii) in the case of payments of any other sum chargeable under the provisions of this Act, the payer himself, or, if the payer is a

Div 2                      company, the company itself including the principal officer  
Ss                          thereof

204-209                      **205 Bar against direct demand on assessee** —Where tax is deductible at the source under sections 192 to 195 the assessee shall not be called upon to pay the tax himself to the extent to which tax has been deducted from that income

(Rr 35,                      **206 Person paying salary to furnish prescribed return** —(1) The prescribed  
36)                          ed person in the case of every office of the Government, the principal officer in the case of every company, the prescribed person in the case of every local authority or other public body or association, and every private employer shall prepare, and within thirty days from the 31st day of March in each year, deliver or cause to be delivered to the Income-tax Officer in the prescribed form and verified in the prescribed manner, a return in writing showing—

(a) the name and, so far as it is known, the address of every person who was receiving on the 31st day of March, or has received or to whom was due during the year ending on that date, from the Government, company, authority, body, association or private employer, as the case may be, any income chargeable under the head "Salaries" of such amount as may be prescribed,

(b) the amount of the income so received by or so due to each such person, and the time or times at which the same was paid or due, as the case may be,

(c) the amount deducted in respect of income-tax and super tax from the income of each such person

(2) Where an employer deducts from the emoluments paid to an employee or pays on his behalf any contributions of that employee to an approved superannuation fund, he shall include all such deductions or payments in the return which he is required to furnish under this section

### *C —Advance payment of tax*

**207 Advance tax and income subject to advance tax** —(1) Tax shall be payable in advance in accordance with the provisions of sections 208 to 219 in the case of income other than income chargeable under the head "Capital gains"

(2) Such income is hereinafter in this Chapter referred to as "income subject to advance tax", and such tax is hereinafter in this Chapter referred to as "advance tax"

**208 Condition of liability to pay advance tax** —Advance tax shall be payable in the financial year—

(a) where the total income exclusive of capital gains of the assessee referred to in sub-clause (i) of clause (a) of section 209 exceeded the maximum amount not chargeable to income tax in his case by two thousand five hundred rupees, or

(b) where it is payable by virtue of the provisions of sub-section (3) of section 212

**209 Computation of advance tax** —The amount of advance tax payable by an assessee in the financial year shall be computed as follows —

(a) (i) his total income of the latest previous year in respect of which he has been assessed by way of regular assessment shall first be ascertained,



(ii) the amount of capital gains, if any, included in such total income shall be deducted therefrom, and on the balance income-tax and super-tax shall be calculated at the rates in force in the financial year, Div 2  
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209, 210

(iii) the income tax and super-tax so calculated shall be reduced by the amount of income-tax and super-tax which would be deductible during the said financial year in accordance with the provisions of sections 192 to 195 on any income, included in the said total income,

(iv) the net amount of income tax and super-tax calculated in accordance with sub clause (iii) shall, subject to the provisions of clauses (b) and (c), be the advance tax payable,

(b) in cases where under the provisions of section 113, the tax payable by the assessee is to be determined with reference to his total world income, the advance tax payable by him shall be calculated in the manner laid down in that section,

(c) in cases where an estimate is sent by the assessee under sub-section (1) or sub section (2) or sub section (3) of section 212, the total income so estimated shall, for the purposes of calculation of tax under this section, be substituted for the total income referred to in clause (a),

\*[(d) in cases where the Income-tax Officer makes an amended order referred to in sub section (3) of section 210 on the basis of a provisional assessment, the total income on the basis of which the relevant provisional assessment had been made shall be substituted for the total income referred to in clause (a) ]

*Explanation* —If the assessee is a partner of a registered firm and an assessment of the firm has been completed for a previous year later than the latest previous year for which the assessee's assessment has been completed, his share in the income of the firm shall, for the purposes of clauses (a) and (b), be included in his total income on the basis of the said assessment of the firm

**210 Order by Income tax Officer** —(1) Where a person has been previously assessed by way of regular assessment under this Act or under the Indian Income-tax Act, 1922 (XI of 1922), the Income-tax Officer may, on or after the 1st day of April in the financial year, by order in writing, require him to pay to the credit of the Central Government advance tax determined in accordance with the provisions of sections 207, 208 and 209

(2) The notice of demand issued under section 156 in pursuance of such order shall specify the instalments in which the advance tax is payable under section 211 (R 38)

(3) †[If, after the making of an order by the Income tax Officer under this section and before the 15th day of February of the financial year, a regular assessment or a provisional assessment under section 141 of the assessee (or of the registered firm of which he is a partner) is made in respect of a previous year later than that referred to in the order of the Income-tax Officer, the Income tax Officer may make an amended order requiring the assessee to pay in one instalment on the specified date, or in equal instalments on the specified dates, if more than one, falling after the date of the amended

\* Inserted by s 11 of the Finance Act, 1963, with effect from the 1st April, 1963

† Substituted by s 12, *ibid*, with effect from the 1st April, 1963

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company, the company itself including the principal officer thereof

**205 Bar against direct demand on assessee**—Where tax is deductible at the source under sections 192 to 195 the assessee shall not be called upon to pay the tax himself to the extent to which tax has been deducted from that income

(Rr 35,  
36)

**206 Person paying salary to furnish prescribed return**—(1) The prescribed person in the case of every office of the Government, the principal officer in the case of every company, the prescribed person in the case of every local authority or other public body or association, and every private employer shall prepare, and within thirty days from the 31st day of March in each year, deliver or cause to be delivered to the Income-tax Officer in the prescribed form and verified in the prescribed manner, a return in writing showing—

- (a) the name and, so far as it is known, the address of every person who was receiving on the 31st day of March, or has received or to whom was due during the year ending on that date, from the Government, company, authority, body, association or private employer, as the case may be, any income chargeable under the head "Salaries" of such amount as may be prescribed,
- (b) the amount of the income so received by or so due to each such person, and the time or times at which the same was paid or due, as the case may be,
- (c) the amount deducted in respect of income tax and super-tax from the income of each such person

(2) Where an employer deducts from the emoluments paid to an employee or pays on his behalf any contributions of that employee to an approved superannuation fund, he shall include all such deductions or payments in the return which he is required to furnish under this section

### *C—Advance payment of tax*

**207 Advance tax and income subject to advance tax**—(1) Tax shall be payable in advance in accordance with the provisions of sections 208 to 219 in the case of income other than income chargeable under the head "Capital gains"

(2) Such income is hereinafter in this Chapter referred to as "income subject to advance tax" and such tax is hereinafter in this Chapter referred to as "advance tax"

**208 Condition of liability to pay advance tax**—Advance tax shall be payable in the financial year—

- (a) where the total income exclusive of capital gains of the assessee referred to in sub-clause (i) of clause (a) of section 209 exceeded the maximum amount not chargeable to income-tax in his case by two thousand five hundred rupees, or
- (b) where it is payable by virtue of the provisions of sub section (3) of section 212

**209 Computation of advance tax**—The amount of advance tax payable by an assessee in the financial year shall be computed as follows—

- (a) (i) his total income of the latest previous year in respect of which he has been assessed by way of regular assessment shall first be ascertained,

(ii) the amount of capital gains, if any, included in such total income shall be deducted therefrom, and on the balance income-tax and super-tax shall be calculated at the rates in force in the financial year,

(iii) the income tax and super-tax so calculated shall be reduced by the amount of income-tax and super-tax which would be deductible during the said financial year in accordance with the provisions of sections 192 to 195 on any income, included in the said total income,

(iv) the net amount of income-tax and super-tax calculated in accordance with sub-clause (iii) shall, subject to the provisions of clauses (b) and (c), be the advance tax payable,

(b) in cases where under the provisions of section 113, the tax payable by the assessee is to be determined with reference to his total world income, the advance tax payable by him shall be calculated in the manner laid down in that section,

(c) in cases where an estimate is sent by the assessee under sub-section (1) or sub-section (2) or sub-section (3) of section 212, the total income so estimated shall, for the purposes of calculation of tax under this section, be substituted for the total income referred to in clause (a),

\*[(d) in cases where the Income-tax Officer makes an amended order referred to in sub-section (3) of section 210 on the basis of a provisional assessment, the total income on the basis of which the relevant provisional assessment had been made shall be substituted for the total income referred to in clause (a) ]

*Explanation* —If the assessee is a partner of a registered firm and an assessment of the firm has been completed for a previous year later than the latest previous year for which the assessee's assessment has been completed, his share in the income of the firm shall, for the purposes of clauses (a) and (b), be included in his total income on the basis of the said assessment of the firm

**210 Order by Income-tax Officer** —(1) Where a person has been previously assessed by way of regular assessment under this Act or under the Indian Income-tax Act, 1922 (XI of 1922), the Income-tax Officer may, on or after the 1st day of April in the financial year, by order in writing, require him to pay to the credit of the Central Government advance tax determined in accordance with the provisions of sections 207, 208 and 209

(2) The notice of demand issued under section 156 in pursuance of such order shall specify the instalments in which the advance tax is payable under section 211 (R. 38)

(3) †[If, after the making of an order by the Income tax Officer under this section and before the 15th day of February of the financial year, a regular assessment or a provisional assessment under section 141 of the assessee (or of the registered firm of which he is a partner) is made in respect of a previous year later than that referred to in the order of the Income-tax Officer, the Income-tax Officer may make an amended order requiring the assessee to pay in one instalment on the specified date, or in equal instalments on the specified dates, if more than one, falling after the date of the amended

\* Inserted by s 11 of the Finance Act, 1963, with effect from the 1st April, 1963

† Substituted by s 12, *ibid*, with effect from the 1st April, 1963

**Div 2** order, the advance tax computed on the basis of the total income determined  
**Ss** for the purposes of the regular assessment or the provisional assessment  
**210-212** aforesaid as reduced by the amount, if any, paid in accordance with the original order ]

Provided that in every case where an assessment of the assessee (or of the registered firm of which he is a partner) is completed in respect of a previous year later than that referred to in the order of the Income tax Officer and the advance tax payable on the basis of such assessment is less than the advance tax determined as payable in accordance with the original order under subsection (1), the Income-tax Officer shall make an amended order determining the advance tax on the revised basis and refund the amount already paid, if any, in excess of the advance tax so determined

**211 Instalments of advance tax**—(1) Subject to the provisions of this section and of section 212, advance tax shall be payable in equal instalments on the 1st day of June, 1st day of September, 1st day of December and 1st day of March in the financial year

Provided that, where the previous year of the assessee in respect of any source of income ends after the 31st day of December and before the 30th day of April, the advance tax on that source of income shall, subject as aforesaid, be payable in three equal instalments on the 1st day of September, the 1st day of December and the 15th day of March, respectively

(2) If the notice of demand issued under section 156 in pursuance of the order under section 210 is served after any of the dates on which the instalments specified therein are payable, the advance tax shall be payable in equal instalments on each of such of those dates as fall after the date of the service of the notice of demand, or in one sum on the 1st day of March if the notice is served after the 1st day of December

(R 39)

**212 Estimate by assessee**—(1) If any assessee, who is required to pay advance tax by an order under section 210, estimates at any time before the last instalment is due that his income subject to advance tax for the period which would be the previous year for the immediately following assessment year, is less than the income on which he is required to pay such tax, and accordingly wishes to pay an amount less than the amount which he is so required to pay, he may send to the Income-tax Officer—

(i) an estimate of the total income exclusive of capital gains for that period,

(ii) an estimate of the advance tax payable by him calculated in the manner laid down in section 209,

and shall pay such amount as accords with his estimate in equal instalments on such of the dates specified in section 211 as have not expired, or in one sum if only the last of such dates has not expired

(2) The assessee may send a revised estimate of the advance tax payable by him before any one of the dates specified in section 211 and adjust any excess or deficiency in respect of any instalment already paid in a subsequent instalment or in subsequent instalments

(3) Any person who has not previously been assessed by way of regular assessment under this Act or under the Indian Income-tax Act, 1922 (XI of 1922), shall, before the 1st day of March in each financial year, if his total income exclusive of capital gains of the period which would be the previous year for the immediately following assessment year is likely to exceed the maximum amount not chargeable to income-tax in his case by two thousand five hundred rupees, send to the Income-tax Officer—

- (i) an estimate of the total income exclusive of capital gains of the said previous year , Div 2  
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 (ii) an estimate of the advance tax payable by him calculated in the manner laid down in section 209 ,

and shall pay such amount as accords with his estimate, on such of the dates specified in section 211 as have not expired, by instalments which may be revised according to sub-section (2)

(4) Every estimate under this section shall be sent in the prescribed form and verified in the prescribed manner

**213 Commission receipts**—Where part of the income subject to advance tax consists of any income of the nature of commission which is receivable periodically and is not received or adjusted by the payer in the assessee's account before any of the quarterly instalments of advance tax become due, he may defer payment of advance tax on that part of his income to the date on which such income would be normally received or adjusted, and, if he does so, he shall communicate to the Income-tax Officer the date to which such payment is deferred

Provided that, if the advance tax of which the payment is deferred is not paid within fifteen days of the date on which such income or part thereof is received or adjusted by the payer in the assessee's account, the advance tax shall be payable with four per cent simple interest per annum from the date of such receipt or adjustment to the date of payment of the advance tax

**214 Interest payable by Government**—(1) The Central Government shall pay simple interest at four per cent per annum on the amount by which the aggregate sum of any instalments of advance tax paid during any financial year in which they are payable under sections 207 to 213 exceeds the amount of the tax determined on regular assessment, from the 1st day of April next following the said financial year to the date of the regular assessment for the assessment year immediately following the said financial year, and where any such instalment is paid after the expiry of the financial year during which it is payable by reason of the provisions of section 213, interest as aforesaid shall also be payable on that instalment from the date of its payment to the date of regular assessment

(2) On any portion of such amount which is refunded under this Chapter, interest shall be payable only up to the date on which the refund was made

**215 Interest payable by assessee**—(1) Where in any financial year an assessee has paid advance tax under section 212 on the basis of his own estimate, and the advance tax so paid is less than seventy-five per cent of the tax determined on the basis of the regular assessment (reduced by the amount of tax deductible in accordance with the provisions of sections 192 to 195) so far as such tax relates to income subject to advance tax and so far as it is not due to variations in the rates of tax made by the Finance Act enacted for the year for which the regular assessment is made, simple interest at the rate of four per cent per annum from the 1st day of April next following the said financial year up to the date of the said regular assessment shall be payable by the assessee upon the amount by which the advance tax so paid falls short of the said seventy-five per cent

\*[(2) Where before the date of completion of a regular assessment, a provisional assessment is made under section 141 or tax is paid by the assessee otherwise than in pursuance of such a provisional assessment—

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\* Substituted by s 13 of the Finance Act, 1963, with effect from the 1st April, 1963

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- (i) interest shall be calculated in accordance with the foregoing provision up to the date on which the tax is paid either as provisionally assessed or otherwise, and
- (ii) thereafter interest shall be calculated at the rate aforesaid on the amount by which the tax as so paid (in so far as it relates to income subject to advance tax) falls short of the said seventy-five per cent ]

(3) Where as a result of an order under section 154 or section 155 or section 250 or section 254 or section 260 or section 262 or section 264, the amount on which interest was payable under this section has been reduced, the interest shall be reduced accordingly and the excess interest paid, if any, shall be refunded

(R. 40)

(4) In such cases and under such circumstances as may be prescribed, the Income tax Officer may reduce or waive the interest payable by the assessee under this section

**216 Interest payable by assessee in case of under-estimate, etc** —Where, on making the regular assessment, the Income-tax Officer finds that any assessee has—

- (a) under sub-section (1) or sub-section (2) or sub-section (3) of section 212 under-estimated the advance tax payable by him and thereby reduced the amount payable in any of the first three instalments, or
- (b) under section 213 wrongly deferred the payment of advance tax on a part of his income,

he may direct that the assessee shall pay simple interest at four per cent per annum—

- (i) in the case referred to in clause (a), for the period during which the payment was deficient, on the difference between the amount paid in each such instalment and the amount which should have been paid, having regard to the aggregate advance tax actually paid during the year, and
- (ii) in the case referred to in clause (b), for the period during which the payment of advance tax was so deferred

*Explanation* —For the purposes of this section, any instalment due before the expiry of six months from the commencement of the previous year in respect of which it is to be paid shall be deemed to have become due fifteen days after the expiry of the said six months

**217 Interest payable by assessee when no estimate made** —(1) Where, on making the regular assessment, the Income-tax Officer finds that any such person as is referred to in sub-section (3) of section 212 has not sent the estimate referred to therein, simple interest at the rate of four per cent per annum from the 1st day of April next following the financial year in which the advance tax was payable in accordance with the said provisions up to the date of the regular assessment shall be payable by the assessee upon the amount equal to the seventy five per cent referred to in sub-section (1) of section 215

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(2) The provisions of sub-sections (2), (3) and (4) of section 215 shall apply to interest payable under this section as they apply to interest payable under that section

**218 When assessee deemed to be in default** —(1) If any assessee does not pay on the specified date any instalment of advance tax that he is required to pay under section 210 and does not, before the date on which any such

instalment as is not paid becomes due, send under sub section (1) or sub section (2) of section 212 an estimate or a revised estimate of the advance tax payable by him, he shall be deemed to be an assessee in default in respect of such instalment or instalments Div 2  
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(2) If any assessee has sent under sub section (1) or sub section (2) or sub-section (3) of section 212 an estimate or a revised estimate of the advance tax payable by him, but does not pay any instalment in accordance therewith on the date or dates specified in section 211, he shall be deemed to be an assessee in default in respect of such instalment or instalments

Provided that the assessee shall not, under sub section (1) or this sub-section, be deemed to be in default in respect of any amount of which the payment is deferred under section 213 until after the date communicated by him to the Income-tax Officer under that section

**219 Credit for advance tax**—Any sum, other than a penalty or interest, paid by or recovered from an assessee as advance tax in pursuance of this Chapter shall be treated as a payment of tax in respect of the income of the period which would be the previous year for an assessment for the assessment year next following the financial year in which it was payable, and credit therefor shall be given to the assessee in the regular assessment

#### *D—Collection and recovery*

**220 When tax payable and when assessee deemed in default**—(1) Any amount, otherwise than by way of advance tax, specified as payable in a notice of demand under section 156 shall be paid within thirty five days of the service of the notice at the place and to the person mentioned in the notice

Provided that, where the Income tax Officer has any reason to believe that it will be detrimental to revenue if the full period of thirty-five days aforesaid is allowed, he may, with the previous approval of the Inspecting Assistant Commissioner, direct that the sum specified in the notice of demand shall be paid within such period being a period less than the period of thirty-five days aforesaid, as may be specified by him in the notice of demand

(2) If the amount specified in any notice of demand under section 156 is not paid within the period limited under sub section (1), the assessee shall be liable to pay simple interest at four per cent per annum from the day commencing after the end of the period mentioned in sub section (1) (Rr 118,  
119)

\*[Provided that, where as a result of an order under section 154, or section 155, or section 250, or section 254, or section 260, or section 262, or section 264, the amount on which interest was payable under this section had been reduced, the interest shall be reduced accordingly and the excess interest paid, if any, shall be refunded ]

(3) Without prejudice to the provisions contained in sub section (2), on an application made by the assessee before the expiry of the due date under sub-section (1), the Income-tax Officer may extend the time for payment or allow payment by instalments, subject to such conditions as he may think fit to impose in the circumstances of the case

(4) If the amount is not paid within the time limited under sub section (1) or extended under sub section (3), as the case may be, at the place and to

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\* Inserted by s 14 of the Finance Act, 1963, with retrospective effect from the commencement of the Act

**Div 2** the person mentioned in the said notice the assessee shall be deemed to be  
**Ss** in default

**220-222** (5) If, in a case where payment by instalments is allowed under sub-section (3), the assessee commits default in paying any one of the instalments within the time fixed under that sub-section, the assessee shall be deemed to be in default as to the whole of the amount then outstanding, and the other instalment or instalments shall be deemed to have been due on the same date as the instalment actually in default

(6) Where an assessee has presented an appeal under section 246 the Income tax Officer may, in his discretion, and subject to such conditions as he may think fit to impose in the circumstances of the case, treat the assessee as not being in default in respect of the amount in dispute in the appeal, even though the time for payment has expired, as long as such appeal remains undisposed of

(7) Where an assessee has been assessed in respect of income arising outside India in a country the laws of which prohibit or restrict the remittance of money to India, the Income tax Officer shall not treat the assessee as in default in respect of that part of the tax which is due in respect of that amount of his income which, by reason of such prohibition or restriction, cannot be brought into India, and shall continue to treat the assessee as not in default in respect of such part of the tax until the prohibition or restriction is removed

*Explanation*—For the purposes of this section, income shall be deemed to have been brought into India if it has been utilised or could have been utilised for the purposes of any expenditure actually incurred by the assessee outside India or if the income, whether capitalised or not, has been brought into India in any form

**221 Penalty payable when tax in default**—(1) When an assessee is in default or is deemed to be in default in making a payment of tax, he shall, in addition to the amount of the arrears and the amount of interest payable under sub-section (2) of section 220, be liable to pay by way of penalty, an amount which, in the case of a continuing default, may be increased from time to time, so, however, that the total amount of penalty does not exceed the amount of tax in arrears

Provided that before levying any such penalty the assessee shall be given a reasonable opportunity of being heard

(2) Where as a result of any final order the amount of tax, with respect to the default in the payment of which the penalty was levied, has been wholly reduced, the penalty levied shall be cancelled and the amount of penalty paid shall be refunded

**(R 119) 222 Certificate to Tax Recovery Officer**—(1) When an assessee is in default or is deemed to be in default in making a payment of tax, the Income tax Officer may forward to the Tax Recovery Officer a certificate under his signature specifying the amount of arrears due from the assessee, and the Tax Recovery Officer on receipt of such certificate, shall proceed to recover from such assessee the amount specified therein by one or more of the modes mentioned below, in accordance with the rules laid down in the Second Schedule—

- (a) attachment and sale of the assessee's movable property,
- (b) attachment and sale of the assessee's immovable property,
- (c) arrest of the assessee and his detention in prison,



(d) appointing a receiver for the management of the assessee's movable and immovable properties

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(2) The Income tax Officer may issue a certificate under sub section (1), notwithstanding that proceedings for recovery of the arrears by any other mode have been taken

**223. Tax Recovery Officer to whom certificate is to be issued**—(1) The Income-tax Officer may forward the certificate referred to in section 222 to—

- (a) the Tax Recovery Officer within whose jurisdiction the assessee carries on his business or profession or within whose jurisdiction the principal place of his business or profession is situate, or
- (b) the Tax Recovery Officer within whose jurisdiction the assessee resides or any movable or immovable property of the assessee is situate.

(2) If the Tax Recovery Officer to whom a certificate is sent by an Income tax Officer is not able to recover the entire amount by the sale of the property, movable and immovable, but has information that the assessee has property †\* within the jurisdiction of another Tax Recovery Officer, he may send the certificate to such other Tax Recovery Officer or to a Tax Recovery Officer within whose jurisdiction the assessee resides, and thereupon that Tax Recovery Officer shall proceed to recover the amount under this Chapter as if the certificate was sent to him by the Income-tax Officer

**224 Validity of certificate, and amendment thereof**—(1) When the Income tax Officer sends a certificate to a Tax Recovery Officer under section 222, it shall not be open to the assessee to dispute before the Tax Recovery Officer the correctness of the assessment, and no objection to the certificate on any ground shall be entertained by the Tax Recovery Officer

(2) Notwithstanding the issue of a certificate to a Tax Recovery Officer, the Income tax Officer shall have power to withdraw or correct any clerical or arithmetical mistake in the certificate by sending an intimation to the Tax Recovery Officer

(3) The Income-tax Officer shall intimate to the Tax Recovery Officer any orders withdrawing or cancelling a certificate or any correction made by him under sub section (2) of this section or any amendment made under sub-section (4) of section 225

**225 Stay of proceedings under certificate and amendment or withdrawal thereof**—(1) Notwithstanding that a certificate has been issued to the Tax Recovery Officer for the recovery of any tax, the Income-tax Officer may grant time for the payment of the tax, and thereupon the Tax Recovery Officer shall stay the proceedings until the expiry of the time so granted

(2) Where a certificate for the recovery of tax has been issued, the Income-tax Officer shall keep the Tax Recovery Officer informed of any tax paid or time granted for payment, subsequent to the issue of such certificate

(3) Where the order giving rise to a demand of tax for which a certificate for recovery has been issued has been modified in appeal or other proceeding under this Act, and, as a consequence thereof, the demand is reduced but the order is the subject-matter of further proceeding under this Act, the Income-tax Officer shall stay the recovery of such part of the amount of the certificate as pertains to the said reduction for the period for which the appeal or other proceeding remains pending

† "In a district" omitted by s 15 of the Finance Act, 1963, with retrospective effect from the commencement of the Act

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(4) Where a certificate for the recovery of tax has been issued and subsequently the amount of the outstanding demand is reduced as a result of an appeal or other proceeding under this Act, the Income tax Officer shall, when the order which was the subject matter of such appeal or other proceeding has become final and conclusive, amend the certificate or withdraw it, as the case may be

**226 Other modes of recovery**—(1) Notwithstanding the issue of a certificate to the Tax Recovery Officer under section 222, the Income-tax Officer may recover the tax by any one or more of the modes provided in this section

(2) If any assessee is in receipt of any income chargeable under the head "Salaries", the Income tax Officer may require any person paying the same to deduct from any payment subsequent to the date of such requisition any arrears of tax due from such assessee, and such person shall comply with any such requisition and shall pay the sum so deducted to the credit of the Central Government or as the Board directs

Provided that any part of the salary exempt from attachment in execution of a decree of a civil court under section 60 of the Code of Civil Procedure, 1908 (V of 1908), shall be exempt from any requisition made under this sub-section

(3)(i) The Income-tax Officer may, at any time or from time to time, by notice in writing require any person from whom money is due or may become due to the assessee or any person who holds or may subsequently hold money for or on account of the assessee, to pay to the Income tax Officer either forthwith upon the money becoming due or being held or at or within the time specified in the notice (not being before the money becomes due or is held) so much of the money as is sufficient to pay the amount due by the assessee in respect of arrears or the whole of the money when it is equal to or less than that amount

(ii) A notice under this sub-section may be issued to any person who holds or may subsequently hold any money for or on account of the assessee jointly with any other person and for the purposes of this sub-section, the shares of the joint-holders in such account shall be presumed, until the contrary is proved, to be equal

(iii) A copy of the notice shall be forwarded to the assessee at his last address known to the Income tax Officer, and in the case of a joint account to all the joint-holders at their last addresses known to the Income-tax Officer

(iv) Save as otherwise provided in this sub-section, every person to whom a notice is issued under this sub-section shall be bound to comply with such notice, and, in particular, where any such notice is issued to a post office, banking company or an insurer, it shall not be necessary for any pass book, deposit receipt, policy or any other document to be produced for the purpose of any entry, endorsement or the like being made before payment is made, notwithstanding any rule, practice or requirement to the contrary

(v) Any claim respecting any property in relation to which a notice under this sub-section has been issued arising after the date of the notice shall be void as against any demand contained in the notice

(vi) Where a person to whom a notice under this sub-section is sent objects to it by a statement on oath that the sum demanded or any part thereof is not due to the assessee or that he does not hold any money for

or on account of the assessee, then, nothing contained in this sub section shall be deemed to require such person to pay any such sum or part thereof, as the case may be, but if it is discovered that such statement was false in any material particular, such person shall be personally liable to the Income-tax Officer to the extent of his own liability to the assessee on the date of the notice, or to the extent of the assessee's liability for any sum due under this Act, whichever is less

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(vi) The Income-tax Officer may, at any time or from time to time, amend or revoke any notice issued under this sub-section or extend the time for making any payment in pursuance of such notice

(vii) The Income-tax Officer shall grant a receipt for any amount paid in compliance with a notice issued under this sub section, and the person so paying shall be fully discharged from his liability to the assessee to the extent of the amount so paid

(ix) Any person discharging any liability to the assessee after receipt of a notice under this sub-section shall be personally liable to the Income tax Officer to the extent of his own liability to the assessee so discharged or to the extent of the assessee's liability for any sum due under this Act, whichever is less

(x) If the person to whom a notice under this sub section is sent fails to make payment in pursuance thereof to the Income-tax Officer, he shall be deemed to be an assessee in default in respect of the amount specified in the notice and further proceedings may be taken against him for the realisation of the amount as if it were an arrear of tax due from him, in the manner provided in sections 222 to 225 and the notice shall have the same effect as an attachment of a debt by the Tax Recovery Officer in exercise of his powers under section 222

(4) The Income tax Officer may apply to the court in whose custody there is money belonging to the assessee for payment to him of the entire amount of such money, or, if it is more than the tax due, an amount sufficient to discharge the tax

(5) The Income-tax Officer may, if so authorised by the Commissioner, proceed to recover the tax by distraint and sale of the movable property of the assessee in the manner laid down in the Third Schedule

**227 Recovery through State Government**—If the recovery of tax in any area has been entrusted to a State Government under clause (1) of article 258 of the Constitution, the State Government may direct, with respect to that area or any part thereof, that tax shall be recovered therein with, and as an addition to, any municipal tax or local rate, by the same person and in the same manner as the municipal tax or local rate is recovered

**228 Recovery of Indian tax in Pakistan and Pakistan tax in India**—  
(1) The Income tax Officer may forward a certificate under section 222 to a Collector in Pakistan through the Central Board of Revenue of Pakistan, if the assessee has property in the district of that Collector, and for the purposes of that section, the expression "Tax Recovery Officer" shall include a Collector in Pakistan

(2) Where a Collector in India receives through the Board a certificate under the signature of an Income tax Officer in Pakistan, the Collector shall proceed to recover the amount specified therein in the manner in which he would proceed to recover the amount specified in a certificate received from an Income-tax Officer in India, and shall remit any sum so recovered by him

**Div 2** to the Income tax Officer in Pakistan, after deducting his expenses in  
**Ss** connection with the recovery proceedings  
**228-231**

(3) The provisions of this section shall remain in force only so long as there are in force similar provisions in the law of Pakistan for the recovery of tax by a Collector in Pakistan on receipt of a certificate from an Income-tax Officer in India

**229 Recovery of penalties, fine, interest and other sums**—Any sum imposed by way of interest, fine, penalty, or any other sum payable under the provisions of this Act, shall be recoverable in the manner provided in this Chapter for the recovery of arrears of tax

**(Rr 42-44)** **230 Tax clearance certificates**—(1) Subject to such exceptions as the Central Government may, by notification in the Official Gazette, specify in this behalf, no person who is not domiciled in India, or who, even if domiciled in India at the time of his departure, has, in the opinion of an Income tax authority, no intention of returning to India, shall leave the territory of India by land, sea or air unless he first obtains from such authority as may be appointed by the Central Government in this behalf (hereinafter in this section referred to as the "competent authority") a certificate stating that he has no liabilities under this Act, the Excess Profits Tax Act, 1940 (XV of 1940), the Business Profits Tax Act, 1947 (XXI of 1947), the Indian Income tax Act, 1922 (XI of 1922), the Wealth Tax Act, 1957 (XXVII of 1957), the Expenditure Tax Act, 1957 (XXIX of 1957), or the Gift Tax Act, 1958 (XVIII of 1958), or that satisfactory arrangements have been made for the payment of all or any of such taxes which are or may become payable by that person

Provided that in the case of a person not domiciled in India the competent authority may, if it is satisfied that such person intends to return to India, issue an exemption certificate either in respect of a single journey or in respect of all journeys to be undertaken by that person within such period as may be specified in the certificate

(2) If the owner or charterer of any ship or aircraft carrying persons from any place in the territory of India to any place outside India allows any person to whom sub-section (1) applies to travel by such ship or aircraft without first satisfying himself that such person is in possession of a certificate as required by that sub section, he shall be personally liable to pay the whole or any part of the amount of tax, if any, payable by such person as the Income-tax Officer may, having regard to the circumstances of the case, determine

(3) In respect of any sum payable by the owner or charterer of any ship or aircraft under sub section (2), the owner or charterer, as the case may be, shall be deemed to be an assessee in default for such sum, and such sum shall be recoverable from him in the manner provided in this Chapter as if it were an arrear of tax

(4) The Board may make rules for regulating any matter necessary for, or incidental to, the purpose of carrying out the provisions of this section

*Explanation*—For the purposes of this section, the expressions "owner" and "charterer" include any representative, agent or employee empowered by the owner or charterer to allow persons to travel by the ship or aircraft

**231 Period for commencing recovery proceedings**—Save in accordance with the provisions of section 173 or sub section (7) of section 220, no proceed-

ings for the recovery of any sum payable under this Act shall be commenced after the expiration of one year from the last day of the financial year in which the demand is made, or, in the case of a person who is deemed to be an assessee in default under any provision of this Act, after the expiration of one year from the last day of the financial year in which the assessee is deemed to be in default

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*Explanation 1*—The period of one year referred to above shall be reckoned—

- (i) where an assessee has been treated as not being in default under sub section (6) of section 220, as long as his appeal is undisposed of, from the last day of the financial year in which the appeal is disposed of,
- (ii) where recovery proceedings in any case have been stayed by any order of a court, from the last day of the financial year in which the order is withdrawn,
- (iii) where the date of payment of tax has been extended by an Income tax authority to another date, from the last day of the financial year in which such other date falls,
- (iv) where the sum payable is allowed to be paid by instalments, from the last day of the financial year in which the last of such instalments is due

*Explanation 2*—A proceeding for the recovery of any sum shall be deemed to have commenced within the meaning of this section, if some action is taken to recover the whole or any part of the sum within the period hereinbefore referred to

**232 Recovery by suit or under other law not affected.**—The several modes of recovery specified in this Chapter shall not affect in any way—

- (a) any other law for the time being in force relating to the recovery of debts due to Government, or
- (b) the right of the Government to institute a suit for the recovery of the arrears due from the assessee,

and it shall be lawful for the Income tax Officer or the Government, as the case may be, to have recourse to any such law or suit, notwithstanding that the tax due is being recovered from the assessee by any mode specified in this Chapter

#### *E —Tax payable under provisional assessment*

**233 Recovery of tax payable under provisional assessment**—For the removal of doubts, it is hereby declared that the provisions of section 220, except sub-section (6) thereof, and sections 221 to 229 apply in relation to any tax payable in pursuance of a provisional assessment made under section 141 as if it were a regular assessment made under section 143 or \*[section] 144

**234 Tax paid by deduction or advance payment**—Tax paid or deemed to have been paid under the provisions of Chapter XVII-B or Chapter XVII-C in respect of any income provisionally assessed under section 141 shall be deemed to have been paid towards the provisional assessment

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\* Inserted by s 16 of the Finance Act, 1963

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## CHAPTER XVIII

## RELIEF RESPECTING TAX ON DIVIDENDS IN CERTAIN CASES

**235 Relief to shareholders in respect of agricultural income-tax attributable to dividends**—Where a company pays to a shareholder any dividend out of its profits and gains which is assessed to agricultural income-tax by any State Government, the shareholder shall be entitled to a reduction from the tax payable by him under this Act, of a sum equal to—

(a) that proportion of the agricultural income-tax (including super tax, if any) paid by the company as the amount of the dividend attributable to the profits of the company assessed to agricultural income tax bears to its total profits assessed to agricultural income-tax, reduced by the amount of refund, if any, allowed to him by the State Government, or

(b) where the shareholder—

(i) is not a company, the amount of income tax (but not super tax) payable by him under this Act, and

(ii) is a company, twenty per cent,

on that portion of the dividend which is attributable to the profits of the company assessed to agricultural income tax,

whichever is less

(R 27)

**236 Relief to company in respect of dividend paid out of past taxed profits**—(1) Where in respect of any previous year relevant to the assessment year commencing after the 31st day of March, 1960, an Indian company or a company which has made the prescribed arrangements for the declaration and payment of dividends within India, pays any dividend wholly or partly out of its profits and gains actually charged to income-tax for any assessment year ending before the 1st day of April, 1960, and deducts tax therefrom in accordance with the provisions of Chapter XVII-B, credit shall be given to the company against the income-tax, if any, payable by it on the profits and gains of the previous year during which the dividend is paid, of a sum calculated in accordance with the provisions of sub section (2), and, where the amount of credit so calculated exceeds the income-tax payable by the company as aforesaid, the excess shall be refunded

(2) The amount of income-tax to be given as credit under sub section (1) shall be a sum equal to ten per cent of so much of the dividends referred to in sub section (1) as are paid out of the profits and gains actually charged to income tax for any assessment year ending before the 1st day of April, 1960

*Explanation 1*—For the purposes of this section, the aggregate of the dividends declared by a company in respect of any previous year shall be deemed first to have come out of the distributable income of that previous year and the balance, if any, out of the undistributed part of the distributable income of one or more previous years immediately preceding that previous year as would be just sufficient to cover the amount of such balance and as has not likewise been taken into account for covering such balance of any other previous year

*Explanation 2*—The expression “distributable income of any previous year” shall mean the total income assessed for that year as reduced by—

(i) the amount of tax payable by the company in respect of the said total income,

- (ii) the amount of any other tax levied under any law for the time being in force on the company by the Government or by a local authority in excess of the amount, if any, which has been allowed in computing the total income, Div 2  
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- (iii) the amount paid to any charitable institution or fund to the extent to which it is exempt from tax under sections 88 and 100, and
- (iv) in the case of a banking company, the amount actually transferred to a reserve fund under section 17 of the Banking Companies Act, 1949 (X of 1949),
- and as increased by—
- (a) any profits and gains or receipts of the company, not included in its total income, and
- (b) any amount attributable to any allowance made in computing the profits and gains of the company for purposes of assessment, which the company has not taken into account in its profit and loss account

## CHAPTER XIX

### REFUNDS

**237 Refunds**—If any person satisfies the Income-tax Officer that the amount of tax paid by him or on his behalf or treated as paid by him or on his behalf for any assessment year exceeds the amount with which he is properly chargeable under this Act for that year, he shall be entitled to a refund of the excess

**238 Person entitled to claim refund in certain special cases**—(1) Where the income of one person is included under any provision of this Act in the total income of any other person, the latter alone shall be entitled to a refund under this Chapter in respect of such income

(2) Where through death, incapacity, insolvency, liquidation or other cause, a person is unable to claim or receive any refund due to him, his legal representative or the trustee or guardian or receiver, as the case may be, shall be entitled to claim or receive such refund for the benefit of such person or his estate

**239 Form of claim for refund and limitation.**—(1) Every claim for refund under this Chapter shall be made in the prescribed form and verified in the prescribed manner (R 41)

(2) No such claim shall be allowed, unless it is made within four years from the last day of the assessment year in which the income in respect of which the claim is made was assessable

**240 Refund on appeal, etc**—Where, as a result of any order passed in appeal or other proceeding under this Act, refund of any amount becomes due to the assessee, the Income-tax Officer shall, except as otherwise provided in this Act, refund the amount to the assessee without his having to make any claim in that behalf

**241 Power to withhold refund in certain cases**—Where an order giving rise to a refund is the subject-matter of an appeal or further proceeding or where any other proceeding under this Act is pending, and the Income tax Officer is of the opinion that the grant of the refund is likely to adversely

**Div. 2** affect the revenue, the Income tax Officer may, with the previous approval  
**Ss** of the Commissioner, withhold the refund till such time as the Commissioner  
**241-245** may determine

**242 Correctness of assessment not to be questioned**—In a claim under this Chapter, it shall not be open to the assessee to question the correctness of any assessment or other matter decided which has become final and conclusive or ask for a review of the same, and the assessee shall not be entitled to any relief on such claim except refund of tax wrongly paid or paid in excess

**243 Interest on delayed refunds**—(1) If the Income-tax Officer does not grant the refund,

(a) in any case where the total income of the assessee does not consist solely of income from interest on securities or dividend, within three months from the date on which the total income is determined under this Act, and

(b) in any other case, within six months from the date on which the claim for refund is made under this Chapter,

the Central Government shall pay the assessee simple interest at four per cent per annum on the amount directed to be refunded from the date immediately following the expiry of the period of three months or six months aforesaid, as the case may be, to the date of the order granting the refund

*Explanation*—If the delay in granting the refund within the period of six months aforesaid is attributable to the assessee, whether wholly or in part, the period of the delay attributable to him shall be excluded from the period for which interest is payable

(2) Where any question arises as to the period to be excluded for the purposes of calculation of interest under the provisions of this section, such question shall be determined by the Commissioner whose decision shall be final

**244 Interest on refund where no claim is needed**—(1) Where a refund is due to the assessee in pursuance of an order referred to in section 240 and the Income-tax Officer does not grant the refund within a period of six months from the date of such order, the Central Government shall pay to the assessee simple interest at four per cent per annum on the amount of refund due from the date immediately following the expiry of the period of six months aforesaid to the date on which the refund is granted

(2) Where a refund is withheld under the provisions of section 241, the Central Government shall pay interest at the aforesaid rate on the amount of refund ultimately determined to be due as a result of the appeal or further proceeding for the period commencing after the expiry of six months from the date of the order referred to in section 241 to the date the refund is granted

**245 Set off of refunds against tax remaining payable**—Where under any of the provisions of this Act, a refund is found to be due to any person, the Income-tax Officer, Appellate Assistant Commissioner or Commissioner as the case may be, may, in lieu of payment of the refund, set off the amount to be refunded or any part of that amount, against the sum, if any, remaining payable under this Act by the person to whom the refund is due, after giving an intimation in writing to such person of the action proposed to be taken under this section



## CHAPTER XX

## APPEALS AND REVISION

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*A — Appeals to the Appellate Assistant Commissioner*

**246 Appealable orders** — Any assessee aggrieved by any of the following orders of an Income-tax Officer may appeal to the Appellate Assistant Commissioner against such order—

- (a) an order against the assessee, being a company, under section 104 ,
- (b) an order imposing a fine under sub-section (2) of section 131 ,
- (c) an order against the assessee, where the assessee denies his liability to be assessed under this Act or any order of assessment under sub-section (3) of section 143 or section 144, where the assessee objects to the amount of income assessed, or to the amount of tax determined, or to the amount of loss computed, or to the status under which he is assessed ,
- (d) an order under section 146 refusing to reopen an assessment made under section 144 ,
- (e) an order of assessment, reassessment or recomputation under section 147 or section 150 ,
- (f) an order under section 154 or section 155 having the effect of enhancing the assessment or reducing a refund or an order refusing to allow the claim made by the assessee under either of the said sections ,
- (g) an order made under section 163 treating the assessee as the agent of a non-resident ,
- (h) an order under sub section (2) or sub section (3) of section 170 ,
- (i) an order under section 171 ,
- (j) an order refusing to register a firm under clause (b) of sub section (1) or under sub-section (5) of section 185 ,
- (k) an order cancelling the registration of a firm under sub-section (1) or under sub-section (2) of section 186 ,
- (l) an order under section 201 ,
- (m) an order under section 216 ,
- (n) an order under section 237 ,
- (o) an order imposing a penalty under—
  - (i) section 221, or
  - (ii) section 270, or
  - (iii) section 271, or
  - (iv) section 272, or
  - (v) section 273

*Explanation* —“ Status ” means the category under which the assessee is assessed as “ individual ”, “ Hindu undivided family ” and so on

**247. Appeal by partner** —Where the partners of a firm are individually assessable on their shares in the total income of the firm, any such partner may appeal to the Appellate Assistant Commissioner against any order of an Income tax Officer determining the amount of the total income or the loss of

**Div 2** the firm or the apportionment thereof between the several partners, but he  
**Ss** cannot agitate such matters in any appeal preferred against an order of  
**247-251** assessment determining his own total income or loss

**248 Appeal by person denying liability to deduct tax**—Any person having in accordance with the provisions of sections 195 and 200 deducted and paid tax in respect of any sum chargeable under this Act, other than interest, who denies his liability to make such deduction, may appeal to the Appellate Assistant Commissioner to be declared not liable to make such deduction

**(Rr 45, 46) 249 Form of appeal and limitation**—(1) Every appeal under this Chapter shall be in the prescribed form and shall be verified in the prescribed manner

(2) The appeal shall be presented within thirty days of the following date, that is to say,—

(a) where the appeal relates to any tax deducted under sub section (1) of section 195, the date of payment of the tax, or

(b) where the appeal relates to any assessment or penalty, the date of service of the notice of demand relating to the assessment or penalty, or

(c) in any other case, the date on which intimation of the order sought to be appealed against is served

(3) The Appellate Assistant Commissioner may admit an appeal after the expiration of the said period if he is satisfied that the appellant had sufficient cause for not presenting it within that period

**250 Procedure in appeal**—(1) The Appellate Assistant Commissioner shall fix a day and place for the hearing of the appeal, and shall give notice of the same to the appellant and to the Income tax Officer against whose order the appeal is preferred

(2) The following shall have the right to be heard at the hearing of the appeal—

(a) the appellant, either in person or by an authorised representative,

(b) the Income tax Officer, either in person or by a representative

(3) The Appellate Assistant Commissioner shall have the power to adjourn the hearing of the appeal from time to time

(4) The Appellate Assistant Commissioner may, before disposing of any appeal, make such further inquiry as he thinks fit, or may direct the Income-tax Officer to make further inquiry and report the result of the same to the Appellate Assistant Commissioner

(5) The Appellate Assistant Commissioner may, at the hearing of an appeal, allow the appellant to go into any ground of appeal not specified in the grounds of appeal, if the Appellate Assistant Commissioner is satisfied that the omission of that ground from the form of appeal was not wilful or unreasonable

(6) The order of the Appellate Assistant Commissioner disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reason for the decision

(7) On the disposal of the appeal, the Appellate Assistant Commissioner shall communicate the order passed by him to the assessee and to the Commissioner

**251 Powers of the Appellate Assistant Commissioner**—(1) In disposing of an appeal, the Appellate Assistant Commissioner shall have the following powers—

- (a) in an appeal against an order of assessment, he may confirm, reduce, enhance or annul the assessment, or he may set aside the assessment and refer the case back to the Income-tax Officer for making a fresh assessment in accordance with the directions given by the Appellate Assistant Commissioner and after making such further inquiry as may be necessary, and the Income tax Officer shall thereupon proceed to make such fresh assessment and determine, where necessary, the amount of tax payable on the basis of such fresh assessment, **Div 2 Ss 251-253**
- (b) in an appeal against an order imposing a penalty, he may confirm or cancel such order or vary it so as either to enhance or to reduce the penalty,
- (c) in any other case, he may pass such orders in the appeal as he thinks fit

(2) The Appellate Assistant Commissioner shall not enhance an assessment or a penalty or reduce the amount of refund unless the appellant has had a reasonable opportunity of showing cause against such enhancement or reduction

*Explanation*—In disposing of an appeal, the Appellate Assistant Commissioner may consider and decide any matter arising out of the proceedings in which the order appealed against was passed, notwithstanding that such matter was not raised before the Appellate Assistant Commissioner by the Appellant

### *B—Appeals to the Appellate Tribunal*

**252 Appellate Tribunal**—(1) The Central Government shall constitute an Appellate Tribunal consisting of as many judicial and accountant members as it thinks fit to exercise the powers and discharge the functions conferred on the Appellate Tribunal by this Act

(2) A judicial member shall be a person who has for at least ten years held a civil judicial post or who has been a member of the Central Legal Service (not below Grade III) for at least three years or who has been in practice as an advocate for at least ten years, and an accountant member shall be a person who has for at least ten years been in the practice of accountancy as a chartered accountant under the Chartered Accountants Act, 1949 (XXXVIII of 1949), or as a registered accountant under any law formerly in force or partly as a registered accountant and partly as a chartered accountant, or who has served as an Assistant Commissioner of Income-tax for at least three years

(3) The Central Government shall ordinarily appoint a judicial member of the Appellate Tribunal to be the President thereof

**253 Appeals to the Appellate Tribunal**—(1) Any assessee aggrieved by any of the following orders may appeal to the Appellate Tribunal against such order— **(R. 47)**

- (a) an order passed by an Appellate Assistant Commissioner under sub-section (2) of section 131, section 250 or section 271, or
- (b) an order passed by an Inspecting Assistant Commissioner under sub-section (2) of section 274, or
- (c) an order passed by a Commissioner under section 263

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(2) The Commissioner may, if he objects to an order passed by an Appellate Authority or Commissioner, or under section 250, direct the Income tax Officer to appeal to the Appellate Tribunal against the order.

(3) Every appeal under sub-section (1) or sub-section (2) shall be filed within sixty days of the date on which the order sought to be appealed against is communicated to the assessee or to the Commissioner, as the case may be.

(4) The Income tax Officer or the Commissioner, as the case may be, on receipt of notice that an appeal against the order of the Appellate Authority or Commissioner has been preferred under sub-section (1) or sub-section (2) by the other party may, notwithstanding that the other party has appealed against the order or any part thereof, within thirty days of the receipt of the notice, file a memorandum of cross-objections, verified in the prescribed manner, against any part of the order of the Appellate Authority or Commissioner, and such cross-objections shall be disposed of by the Appellate Tribunal as if it were an appeal preferred within the time specified in sub-section (3).

(5) The Appellate Tribunal may, on payment of per cent the filing of a memorandum of cross-objections after the expiry of the relevant period referred to in sub-section (3) or sub-section (4), but it is provided that there is a sufficient cause for not presenting it within that period.

(6) An appeal to the Appellate Tribunal shall be in the prescribed form and shall be verified in the prescribed manner and, shall, except in the case of an appeal referred to in sub-section (2) or a cross-objection of cross-objections referred to in sub-section (4) be accompanied by a fee of rupee one hundred.

**254 Orders of Appellate Tribunal**—(1) The Appellate Tribunal may, after giving both the parties to the appeal an opportunity of being heard, pass such order thereon as it thinks fit.

(2) The Appellate Tribunal may, at any time within four years from the date of the order, with a view to rectifying any material apparent from the record, amend any order passed by it under sub-section (1) and shall make such amendment if the matter is brought to its notice by the assessee or the Income tax Officer.

Provided that an amendment which has the effect of enhancing an assessment or reducing a refund or otherwise increasing the liability of the assessee, shall not be made under the said section unless the Appellate Tribunal has given notice to the assessee of its intention to do so and has allowed the assessee a reasonable opportunity of being heard.

(3) The Appellate Tribunal shall send a copy of any orders passed under this section to the assessee and to the Commissioner.

(4) Save as provided in section 256, orders passed by the Appellate Tribunal on appeal shall be final.

**255 Procedure of Appellate Tribunal**—(1) The powers and functions of the Appellate Tribunal may be exercised and discharged by Benches constituted by the President of the Appellate Tribunal from among the members thereof.

(2) Subject to the provisions contained in sub-section (3), a Bench shall consist of one judicial member and one accountant member.

(3) The President or any other member of the Appellate Tribunal authorised in this behalf by the Central Government may, sitting singly, dispose of any case which has been allotted to the Bench of which he is a

member and which pertains to an assessee whose total income as computed by the Income-tax Officer in the case does not exceed twenty-five thousand rupees, and the President may, for the disposal of any particular case, constitute a special Bench consisting of three or more members, one of whom shall necessarily be a judicial member and one an accountant member

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(4) If the members of a Bench differ in opinion on any point, the point shall be decided according to the opinion of the majority, if there is a majority, but if the members are equally divided, they shall state the point or points on which they differ, and the case shall be referred by the President of the Appellate Tribunal for hearing on such point or points by one or more of the other members of the Appellate Tribunal, and such point or points shall be decided according to the opinion of the majority of the members of the Appellate Tribunal who have heard the case, including those who first heard it

(5) Subject to the provisions of this Act, the Appellate Tribunal shall have power to regulate its own procedure and the procedure of Benches thereof in all matters arising out of the exercise of its powers or of the discharge of its functions, including the places at which the Benches shall hold their sittings

(6) The Appellate Tribunal shall, for the purpose of discharging its functions, have all the powers which are vested in the Income-tax authorities referred to in section 131, and any proceeding before the Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purpose of section 196 of the Indian Penal Code (XLV of 1860) and the Appellate Tribunal shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898 (V of 1898)

*C—Reference to High Court*

**256 Statement of case to the High Court**—(1) The assessee or the Commissioner may, within sixty days of the date upon which he is served with notice of an order under section 254, by application in the prescribed form, accompanied where the application is made by the assessee by a fee of rupees one hundred, require the Appellate Tribunal to refer to the High Court any question of law arising out of such order and, subject to the other provisions contained in this section, the Appellate Tribunal shall, within one hundred and twenty days of the receipt of such application, draw up a statement of the case and refer it to the High Court

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Provided that the Appellate Tribunal may, if it is satisfied that the applicant was prevented by sufficient cause from presenting the application within the period hereinbefore specified, allow it to be presented within a further period not exceeding thirty days

(2) If, on an application made under sub-section (1), the Appellate Tribunal refuses to state the case on the ground that no question of law arises, the assessee or the Commissioner, as the case may be, may, within six months from the date on which he is served with notice of such refusal, apply to the High Court, and the High Court may, if it is not satisfied with the correctness of the decision of the Appellate Tribunal, require the Appellate Tribunal to state the case and to refer it, and on receipt of any such requisition, the Appellate Tribunal shall state the case and refer it accordingly

(3) Where in the exercise of its powers under sub-section (2), the Appellate Tribunal refuses to state a case which it has been required by the

**Div 2** assessee to state, the assessee may, within thirty days from the date on which  
**Ss** he receives notice of such refusal, withdraw his application, and, if he does  
**256-262** so, the fee paid shall be refunded

**257 Statement of case to Supreme Court in certain cases.**—If, on an application made under section 256 the Appellate Tribunal is of the opinion that, on account of a conflict in the decisions of High Courts in respect of any particular question of law, it is expedient that a reference should be made direct to the Supreme Court, the Appellate Tribunal may draw up a statement of the case and refer it through its President direct to the Supreme Court

**258 Power of High Court or Supreme Court to require statement to be amended**—If the High Court or the Supreme Court is not satisfied that the statements in a case referred to it are sufficient to enable it to determine the questions raised thereby, the Court may refer the case back to the Appellate Tribunal for the purpose of making such additions thereto or alterations therein as it may direct in that behalf

**259 Case before High Court to be heard by not less than two judges.**—(1) When any case has been referred to the High Court under section 256, it shall be heard by a Bench of not less than two judges of the High Court, and shall be decided in accordance with the opinion of such judges or of the majority, if any, of such judges

(2) Where there is no such majority, the judges shall state the point of law upon which they differ, and the case shall then be heard upon that point only by one or more of the other judges of the High Court, and such point shall be decided according to the opinion of the majority of the judges who have heard the case including those who first heard it

**260 Decision of High Court or Supreme Court on the case stated**—(1) The High Court or the Supreme Court upon hearing any such case shall decide the questions of law raised therein, and shall deliver its judgment thereon containing the grounds on which such decision is founded, and a copy of the judgment shall be sent under the seal of the Court and the signature of the Registrar to the Appellate Tribunal which shall pass such orders as are necessary to dispose of the case conformably to such judgment

(2) The costs of any reference to the High Court or the Supreme Court which shall not include the fee for making the reference shall be in the discretion of the Court

### *D—Appeals to the Supreme Court*

**261 Appeal to Supreme Court**—An appeal shall lie to the Supreme Court from any judgment of the High Court delivered on a reference made under section 256 in any case which the High Court certifies to be a fit one for appeal to the Supreme Court

**262 Hearing before Supreme Court**—(1) The provisions of the Code of Civil Procedure, 1908 (V of 1908), relating to appeals to the Supreme Court shall, so far as may be, apply in the case of appeals under section 261 as they apply in the case of appeals from decrees of a High Court

Provided that nothing in this section shall be deemed to affect the provisions of sub section (1) of section 260 or section 265

(2) The costs of the appeal shall be in the discretion of the Supreme Court

(3) Where the judgment of the High Court is varied or reversed in the appeal, effect shall be given to the order of the Supreme Court in the manner provided in section 260 in the case of a judgment of the High Court

*E—Revision by the Commissioner*Div 2  
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**263 Revision of orders prejudicial to revenue**—(1) The Commissioner may call for and examine the record of any proceeding under this Act, and if he considers that any order passed therein by the Income-tax Officer is erroneous in so far as it is prejudicial to the interests of the revenue, he may, after giving the assessee an opportunity of being heard and after making or causing to be made such inquiry as he deems necessary, pass such order thereon as the circumstances of the case justify, including an order enhancing or modifying the assessment, or cancelling the assessment and directing a fresh assessment

(2) No order shall be made under sub section (1)—

(a) to revise an order of reassessment made under section 147, or

(b) after the expiry of two years from the date of the order sought to be revised

(3) Notwithstanding anything contained in sub-section (2), an order in revision under this section may be passed at any time in the case of an order which has been passed in consequence of, or to give effect to, any finding or direction contained in an order of the Appellate Tribunal, the High Court or the Supreme Court

*Explanation*—In computing the period of limitation for the purposes of sub-section (2), the time taken in giving an opportunity to the assessee to be re-heard under the proviso to section 129 and any period during which any proceeding under this section is stayed by an order or injunction of any court shall be excluded

**264. Revision of other orders**—(1) In the case of any order other than an order to which section 263 applies passed by an authority subordinate to him, the Commissioner may, either of his own motion or on an application by the assessee for revision, call for the record of any proceeding under this Act in which any such order has been passed and may make such inquiry or cause such inquiry to be made and, subject to the provisions of this Act, may pass such order thereon, not being an order prejudicial to the assessee, as he thinks fit

(2) The Commissioner shall not of his own motion revise any order under this section if the order has been made more than one year previously

(3) In the case of an application for revision under this section by the assessee, the application must be made within one year from the date on which the order in question was communicated to him or the date on which he otherwise came to know of it, whichever is earlier

Provided that the Commissioner may, if he is satisfied that the assessee was prevented by sufficient cause from making the application within that period, admit an application made after the expiry of that period

(4) The Commissioner shall not revise any order under this section in the following cases—

(a) where an appeal against the order lies to the Appellate Assistant Commissioner or to the Appellate Tribunal but has not been made and the time within which such appeal may be made has not expired, or, in the case of an appeal to the Appellate Tribunal, the assessee has not waived his right of appeal, or

(b) where the order is pending on an appeal before the Appellate Assistant Commissioner, or

- \*[(vi) In relation to the Union territories of Dadra and Nagar Haveli and Goa, Daman and Diu, the High Court at Bombay, and (vii) in relation to the Union territory of Pondicherry, the High Court at Madras ]

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## CHAPTER XXI

### PENALTIES IMPOSABLE

**270 Failure to furnish information regarding securities, etc**—If any person without reasonable excuse fails to comply with a notice issued under sub-section (6) of section 94, the Income-tax Officer may direct that such person shall pay by way of penalty a sum not exceeding five hundred rupees and by way of further penalty a like amount for every day after the infliction of such penalty during which the failure continues

**271 Failure to furnish returns, comply with notices, concealment of income, etc**—(1) If the Income tax Officer or the Appellate Assistant Commissioner in the course of any proceedings under this Act, is satisfied that any person—

- (a) has without reasonable cause failed to furnish the return of†\* total income which he was required to furnish under sub-section (1) of section 139 or by notice given under sub-section (2) of section 139 or section 148 or has without reasonable cause failed to furnish it within the time allowed and in the manner required by sub-section (1) of section 139 or by such notice, as the case may be, or
- (b) has without reasonable cause failed to comply with a notice under sub-section (1) of section 142 or sub-section (2) of section 143, or
- (c) has concealed the particulars of his income or deliberately furnished inaccurate particulars of such income,

he may direct that such person shall pay by way of penalty,—

- (i) in the cases referred to in clause (a), in addition to the amount of the tax, if any, payable by him, a sum equal to two per cent of the tax for every month during which the default continued, but not exceeding in the aggregate fifty per cent of the tax,
- (ii) in the cases referred to in clause (b), in addition to any tax payable by him, a sum which shall not be less than ten per cent but which shall not exceed fifty per cent of the amount of the tax, if any, which would have been avoided if the income returned by such person had been accepted as the correct income,
- (iii) in the cases referred to in clause (c), in addition to any tax payable by him, a sum which shall not be less than twenty per cent but which shall not exceed one and a half times the amount of the tax, if any, which would have been avoided if the income as returned by such person had been accepted as the correct income

(2) When the person liable to penalty is a registered firm or an un-registered firm which has been assessed under clause (b) of section 183, then,

\* Inserted by s 3 and Schedule of the Taxation Laws (Extension to Union Territories) Regulation, 1963 (3 of 1963)

† "His" omitted by s 17 of the Finance Act, 1963



immediately preceding the assessment year under the provisions of Chapter XVII-C falls short of—

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(1) seventy-five per cent of the tax determined on regular assessment, as modified under the provisions of section 215, or

(2) where a notice under section 210 was issued to the assessee, the amount payable thereunder,

whichever is less, and

(ii) which, in the case referred to in clause (b), shall not be less than ten per cent but shall not exceed one and a half times the amount on which interest is payable under section 217

**274 Procedure**—(1) No order imposing a penalty under this Chapter shall be made unless the assessee has been heard, or has been given a reasonable opportunity of being heard

(2) Notwithstanding anything contained in clause (ii) of sub-section (1) of section 271, if in a case falling under clause (c) of that sub section, the minimum penalty imposable exceeds a sum of rupees one thousand, the Income tax Officer shall refer the case to the Inspecting Assistant Commissioner who shall, for the purpose, have all the powers conferred under this Chapter for the imposition of penalty

(3) An Appellate Assistant Commissioner on making an order under this Chapter imposing a penalty, shall forthwith send a copy of the same to the Income-tax Officer

**275 Bar of limitation for imposing penalty**—No order imposing a penalty under this Chapter shall be passed after the expiration of two years from the date of the completion of the proceedings in the course of which the proceedings for the imposition of penalty have been commenced

*Explanation*—In computing the period of limitation for the purpose of this section, the time taken in giving an opportunity to the assessee to be re-heard under the proviso to section 129 and any period during which a proceeding under this Chapter for the levy of penalty is stayed by an order or injunction of any court shall be excluded

## CHAPTER XXII

### OFFENCES AND PROSECUTIONS

**276 Failure to make payments or deliver returns or statements or allow inspection.**—If a person fails without reasonable cause or excuse—

(a) to grant inspection or allow copies to be taken in accordance with the provisions of section 134,

(b) to furnish in due time any of the returns or statements mentioned in section 133, sub-section (2) of section 139, section 206, section 285 or section 286,

(c) to produce, or cause to be produced, on or before the date mentioned in any notice under sub section (1) of section 142, such accounts and documents as are referred to in the notice,

(d) to deduct and pay tax as required by the provisions of Chapter XVII-B or under sub-section (2) of section 226, or

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(e) to furnish a certificate required by section 203, -  
he shall be punishable with fine which may extend to ten rupees for every day during which the default continues

**277 False statement in declaration** —If a person makes a statement in any verification under this Act or under any rule made thereunder, or delivers an account or statement which is false, and which he either knows or believes to be false, or does not believe to be true, he shall be punishable with simple imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both

**278 Abetment of false return, etc** —If a person abets or induces in any manner another person to make and deliver an account, statement or declaration relating to any income chargeable to tax which is false and which he either knows to be false or does not believe to be true, he shall be punishable with simple imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both

**279 Prosecution to be at instance of Commissioner** —(1) A person shall not be proceeded against for an offence under section 276 or section 277 or section 278 except at the instance of the Commissioner

(2) The Commissioner may either before or after the institution of proceedings compound any such offence

**280 Disclosure of particulars by public servants** —(1) If a public servant discloses any particulars, the disclosure of which is prohibited by section 137, he shall be punishable with imprisonment which may extend to six months, and shall also be liable to fine

(2) No prosecution shall be instituted under this section except with the previous sanction of the Central Government

## CHAPTER XXIII

### MISCELLANEOUS

**281 Transfers to defraud revenue void** —Where, during the pendency of any proceeding under this Act, any assessee creates a charge on or parts with the possession by way of sale, mortgage, exchange or any other mode of transfer whatsoever, of any of his assets in favour of any other person with the intention to defraud the revenue, such charge or transfer shall be void as against any claim in respect of any tax or any other sum payable by the assessee as a result of the completion of the said proceeding

Provided that such charge or transfer shall not be void if made for a valuable consideration and without notice of the pendency of the proceeding under this Act

**282 Service of notice generally** —(1) A notice or requisition under this Act may be served on the person therein named either by post or as if it were a summons issued by a court under the Code of Civil Procedure, 1908 (V of 1908)

(2) Any such notice or requisition may be addressed—

(a) in the case of a firm or a Hindu undivided family, to any member of the firm or to the manager or any adult member of the family,

- (b) in the case of a local authority or company, to the principal officer thereof, Div 2  
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- (c) in the case of any other association or body of individuals, to the principal officer or any member thereof,
- (d) in the case of any other person (not being an individual), to the person who manages or controls his affairs

**283 Service of notice when family is disrupted or firm, etc., is dissolved —**  
 (1) After a finding of total partition has been recorded by the Income tax Officer under section 171 in respect of any Hindu family, notices under this Act in respect of the income of the Hindu family shall be served on the person who was the last manager of the Hindu family, or, if such person is dead, then on all adults who were members of the Hindu family immediately before the partition

(2) Where a firm or other association of persons is dissolved, notices under this Act in respect of the income of the firm or association may be served on any person who was a partner (not being a minor) or member of the association, as the case may be, immediately before its dissolution

**284 Service of notice in the case of discontinued business —**Where an assessment is to be made under section 176, the Income-tax Officer may serve on the person whose income is to be assessed, or, in the case of a firm or an association of persons, on any person who was a member of such firm or association at the time of its discontinuance or, in the case of a company, on the principal officer thereof, a notice containing all or any of the requirements which may be included in a notice under sub section (2) of section 139, and the provisions of this Act shall, so far as may be, apply accordingly as if the notice were a notice issued under that section

**285. Information by persons responsible for paying interest —**The person (R 116) responsible for paying any interest, not being "Interest on securities", shall, on or before the fifteenth day of June in each year, furnish to the Income tax Officer having jurisdiction to assess him, a return in the prescribed form and verified in the prescribed manner of the names and addresses of all persons to whom during the previous financial year he has paid interest or aggregate interest exceeding such amount, not being less than four hundred rupees, as may be prescribed in this behalf, together with the amount paid to each such person

**286 Information by companies respecting shareholders to whom dividends have been paid —**The principal officer of every company which is an Indian company or a company which has made such arrangements as may be prescribed for the declaration and payment of dividends in India shall, on or before the fifteenth day of June in each year, furnish to the prescribed officer a return in the prescribed form and verified in the prescribed manner of the names and of the addresses, as entered in the register of shareholders maintained by the company, of the shareholders to whom a dividend or aggregate dividends exceeding such amount as may be prescribed in this behalf has or have been distributed during the preceding year and of the amount so distributed to each shareholder (Rr 27, 117)

**287 Publication of information respecting penalties in certain cases —**  
 (1) The Central Government shall cause to be published, by notification in the Official Gazette, the names and such other particulars as may be relevant of—

- (a) persons on each of whom a penalty amounting to not less than five thousand rupees or such lesser amount as may be fixed by the

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- Central Government, by notification in the Official Gazette, has been imposed under clause (c) of sub section (1) of section 271, and
- (b) persons who have been convicted as a result of any proceedings under section 277 or under any provision of the Indian Penal Code (XLV of 1860) for any offence connected with any proceedings under this Act
- (2) If in the interests of revenue the Central Government considers it necessary so to do, it may also cause to be published, by notification in the Official Gazette, the names and such other particulars as may be relevant of—
- (a) persons on each of whom a penalty has been imposed under clause (a) or clause (b) of sub section (1) of section 271, or
- (b) persons on each of whom a penalty of an amount not exceeding the amount referred to in clause (a) of sub section (1) has been imposed under clause (c) of sub-section (1) of section 271, or
- (c) persons who have been convicted as a result of any proceedings under any provision of this Act other than section 277
- (3) No publication under this section shall be made—
- (i) in the case of an assessee mentioned in clause (a) of sub-section (1) or in clause (a) or clause (b) of sub section (2) who has presented an appeal under section 246 or under clause (b) of sub-section (1) of section 253 against the order imposing the penalty, until the appeal is disposed of by the Appellate Assistant Commissioner, or, in the case of an appeal filed under clause (b) of sub section (1) of section 253, by the Appellate Tribunal,
- (ii) in the case of an assessee mentioned in clause (b) of sub section (1) or clause (c) of sub section (2), until the time for appealing has expired without an appeal having been presented, or the appeal, if presented, has been disposed of
- (4) Notwithstanding anything contained in this section, the Central Government may refrain from publishing the name of any person if it is satisfied that in the interests of revenue it is necessary so to do, and where the Central Government refrains from publishing the name of any person, the reason for not publishing the name shall be recorded in writing
- (5) Every notification issued under this section shall be laid before Parliament as soon as may be after it is made
- (6) The provisions of this section shall have effect notwithstanding anything to the contrary contained in sections 137 and 280
- (7) The provisions of this section shall have effect in relation to penalties imposed after the 1st day of April, 1960, under the Indian Income-tax Act, 1922 (XI of 1922), or to proceedings for any offence initiated after the said date under that Act as they have effect in relation to penalties imposed or proceedings initiated under this Act with the modification that references in this section to any provision of this Act shall be construed as references to the corresponding provision of that Act
- Explanation*—In the case of a firm, company or other association of persons, the names of the partners of the firm, directors, managing agents, secretaries and treasurers, or managers of the company, or the members of the association, as the case may be, may also be published if, in the opinion of the Central Government, the circumstances of the case justify it
- r 49- ) 288 Appearance by authorised representative—(1) Any assessee who is entitled or required to attend before any Income-tax authority or the

Appellate Tribunal in connection with any proceeding under this Act otherwise than when required under section 131 to attend personally for examination on oath or affirmation, may, subject to the other provisions of this section, attend by an authorised representative Div 2  
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(2) For the purposes of this section, " authorised representative " means a person authorised by the assessee in writing to appear on his behalf, being—

- (i) a person related to the assessee in any manner, or a person regularly employed by the assessee, or
- (ii) any officer of a Scheduled Bank with which the assessee maintains a current account or has other regular dealings, or
- (iii) any legal practitioner who is entitled to practise in any civil court in India, or
- (iv) an accountant, or
- (v) any person who has passed any accountancy examination (R. 50) recognised in this behalf by the Board, or
- (vi) any person who has acquired such educational qualifications (R 51) as the Board may prescribe for this purpose, or
- \*[(vi-a) any person who, before the coming into force of this Act in the Union territory of Dadra and Nagar Haveli, Goa, Daman and Diu, or Pondicherry, attended before an Income-tax authority in the said territory on behalf of any assessee otherwise than in the capacity of an employee or relative of that assessee, or]
- (vii) any other person who, immediately before the commencement of this Act, was an Income-tax practitioner within the meaning of clause (iv) of sub-section (2) of section 61 of the Indian Income-tax Act, 1922 (XI of 1922), and was actually practising as such

*Explanation*—In this section, "accountant" means a chartered accountant within the meaning of the Chartered Accountants Act, 1949 (XXXVIII of 1949), and includes, in relation to any State, any person who by virtue of the provisions of sub-section (2) of section 226 of the Companies Act, 1956 (I of 1956), is entitled to be appointed to act as an auditor of companies registered in that State

(3) Notwithstanding anything contained in this section, if the authorised representative is a person formerly employed as an Income tax authority, not below the rank of Income-tax Officer, and has retired or resigned from such employment after having served for not less than three years in any capacity under this Act or under the Indian Income-tax Act, 1922 (XI of 1922), from the date of his first employment as such, he shall not be entitled to represent any assessee for a period of two years from the date of his retirement or resignation, as the case may be

(4) No person—

- (a) who has been dismissed or removed from Government service after the 1st day of April, 1938, or
- (b) who has been convicted of an offence connected with any income-tax proceeding or on whom a penalty has been imposed under this Act other than a penalty imposed on him under clauses (i) and (ii) of sub-section (1) of section 271, or

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\* Inserted by s 3 and Schedule of the Taxation Laws (Extension to Union Territories) Regulation, 1963 (3 of 1963)

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(c) who has become an insolvent,

shall be qualified to represent an assessee under sub section (1), for all times in the case of a person referred to in sub clause (a), for such time as the Commissioner may by order determine in the case of a person referred to in sub-clause (b), and for the period during which the insolvency continues in the case of a person referred to in sub-clause (c)

(5) If any person—

(a) who is a legal practitioner or an accountant is found guilty of misconduct in his professional capacity by any authority entitled to institute disciplinary proceedings against him, an order passed by that authority shall have effect in relation to his right to attend before an Income-tax authority as it has in relation to his right to practise as a legal practitioner or accountant, as the case may be,

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(b) who is not a legal practitioner or an accountant, is found guilty of misconduct in connection with any income-tax proceedings by the prescribed authority, the prescribed authority may direct that he shall thenceforth be disqualified to represent an assessee under sub-section (1)

(6) Any order or direction under clause (b) of sub-section (4) or clause (b) of sub-section (5) shall be subject to the following conditions, namely,—

(a) no such order or direction shall be made in respect of any person unless he has been given a reasonable opportunity of being heard,

(b) any person against whom any such order or direction is made may, within one month of the making of the order or direction, appeal to the Board to have the order or direction cancelled, and

(c) no such order or direction shall take effect until the expiration of one month from the making thereof, or, where an appeal has been preferred, until the disposal of the appeal

(7) A person disqualified to represent an assessee by virtue of the provisions of sub section (3) of section 61 of the Indian Income-tax Act, 1922 (XI of 1922), shall be disqualified to represent an assessee under sub section (1)

289 Receipt to be given —A receipt shall be given for any money paid or recovered under this Act

290 Indemnity —Every person deducting, retaining, or paying any tax in pursuance of this Act in respect of income belonging to another person is hereby indemnified for the deduction, retention, or payment thereof

291 Power to tender immunity from prosecution —(1) The Central Government may, if it is of opinion (the reasons for such opinion being recorded in writing) that with a view to obtaining the evidence of any person appearing to have been directly or indirectly concerned in or privy to the concealment of income or to the evasion of payment of tax on income \* [it is necessary or expedient so to do], tender to such person immunity from prosecution for any offence under this Act or under the Indian Penal Code (XLV of 1860) or under any other Central Act for the time being in force and also from the imposition of any penalty under this Act on condition of his making a full and true disclosure of the whole circumstances relating to the concealment of income or evasion of payment of tax on income

\* Inserted by s 18 of the Finance Act, 1963

(2) A tender of immunity made to, and accepted by, the person concerned, shall, to the extent to which the immunity extends, render him immune from prosecution for any offence in respect of which the tender was made or from the imposition of any penalty under this Act

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(3) If it appears to the Central Government that any person to whom immunity has been tendered under this section has not complied with the condition on which the tender was made or is wilfully concealing anything or is giving false evidence, the Central Government may record a finding to that effect, and thereupon the immunity shall be deemed to have been withdrawn, and any such person may be tried for the offence in respect of which the tender of immunity was made or for any other offence of which he appears to have been guilty in connection with the same matter and shall also become liable to the imposition of any penalty under this Act to which he would otherwise have been liable

**292 Cognisance of offences**—No court inferior to that of a presidency magistrate or a magistrate of the first class shall try any offence under this Act

**293 Bar of suits in civil courts**—No suit shall be brought in any civil court to set aside or modify any assessment order made under this Act, and no prosecution, suit or other proceeding shall lie against any officer of the Government for anything in good faith done or intended to be done under this Act

**294 Act to have effect pending legislative provision for charge of tax**—If on the 1st day of April in any assessment year provision has not yet been made by a Central Act for the charging of income-tax or super tax for that assessment year, this Act shall nevertheless have effect until such provision is so made as if the provision in force in the preceding assessment year or the provision proposed in the Bill then before Parliament, whichever is more favourable to the assessee, were actually in force

**\*[294A Power to make exemption, etc., in relation to certain Union territories**—If the Central Government considers it necessary or expedient so to do for avoiding any hardship or anomaly or removing any difficulty that may arise as a result of the application of this Act to the Union territories of Dadra and Nagar Haveli, Goa, Daman and Diu, and Pondicherry, or in the case of the Union territory of Pondicherry, for implementing any provision of the Treaty of Cession concluded between France and India on the 28th day of May, 1956, that Government may, by general or special order, make an exemption, reduction in rate or other modification in respect of income-tax or super-tax in favour of any assessee or class of assesses or in regard to the whole or any part of the income of any assessee or class of assesses

Provided that the power conferred by this section shall not be exercisable after the 31st day of March, 1967, except for the purpose of rescinding an exemption, reduction or modification already made ]

**295 Power to make rules**—(1) The Board may, subject to the control of the Central Government, by notification in the Gazette of India, make rules for the whole or any part of India for carrying out the purposes of this Act

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters—

\*Inserted by s 3 and Schedule of the Taxation Laws (Extension to Union Territories) Regulation, 1963 (3 of 1963)

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- (Rr 7,  
8)
- (Rr 10,  
11)
- (R 3)
- (R 5)
- (R 21)
- (R 9)
- (R 41)
- (Rr 42-  
44)
- (Rr 45-  
47)
- (Rr 52-  
65)
- (a) the ascertainment and determination of any class of income ,
  - (b) the manner in which and the procedure by which the income shall be arrived at in the case of—
    - (i) income derived in part from agriculture and in part from business ,
    - (ii) persons residing outside India ,
  - (c) the determination of the value of any perquisite chargeable to tax under this Act in such manner and on such basis as appears to the Board to be proper and reasonable ,
  - (d) the percentage on the written down value which may be allowed as depreciation in respect of buildings, machinery, plant or furniture ,
  - (e) the percentage or the amount to be prescribed under clause (i) of sub-section (3) of section 87 ,
  - (f) the manner in which and the period to which any such income as is referred to in section 180 may be allocated ,
  - (g) the authority to be prescribed for any of the purposes of this Act ,
  - (h) the procedure for giving effect to the terms of any agreement for the granting of relief in respect of double taxation or for the avoidance of double taxation which may be entered into by the Central Government under this Act ,
  - (i) the form and manner in which any application, claim, return or information may be made or furnished and the fees that may be levied in respect of any application or claim ,
  - (j) the manner in which any document required to be filed under this Act may be verified ,
  - (k) the procedure to be followed on applications for refunds ,
  - (l) the regulation of any matter for which provision is made in section 230 ,
  - (m) the form and manner in which any appeal or cross objection may be filed under this Act, the fee payable in respect thereof and the manner in which intimation of any such order as is referred to in clause (c) of sub-section (2) of section 249 may be served ,
  - (n) the maintenance of a register of persons other than legal practitioners or accountants as defined in sub section (2) of section 288 practising before Income-tax authorities and for the constitution of and the procedure to be followed by the authority referred to in sub-section (5) of that section ,
  - (o) the issue of certificate verifying the payment of tax by assesseees ,
  - (p) any other matter which by this Act is to be, or may be, prescribed
- (3) In cases coming under clause (b) of sub section (2), where the income liable to tax cannot be definitely ascertained, or can be ascertained only with an amount of trouble and expense to the assessee which in the opinion of the Board is unreasonable, the rules made under this section may—
- (a) prescribe methods by which an estimate of such income may be made , and
  - (b) in cases coming under sub-clause (i) of clause (b) of sub-section (2) specify the proportion of the income which shall be deemed to be income liable to tax ,



and an assessment based on such estimate or proportion shall be deemed to be duly made in accordance with the provisions of this Act

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**296 Rules to be placed before Parliament**—The Central Government shall cause every rule made under this Act to be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days, which may be comprised in one session or in two successive sessions, and, if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, that rule shall thereafter have effect, only in such modified form or be of no effect, as the case may be, so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule

**297 Repeals and savings**—(1) The Indian Income-tax Act, 1922 (XI of 1922), is hereby repealed

(2) Notwithstanding the repeal of the Indian Income-tax Act, 1922 (XI of 1922) (hereinafter referred to as the repealed Act),—

- (a) where a return of income has been filed before the commencement of this Act by any person for any assessment year, proceedings for the assessment of that person for that year may be taken and continued as if this Act had not been passed,
- (b) where a return of income is filed after the commencement of this Act otherwise than in pursuance of a notice under section 34 of the repealed Act by any person for the assessment year ending on the 31st day of March, 1962, or any earlier year, the assessment of that person for that year shall be made in accordance with the procedure specified in this Act,
- (c) any proceeding pending on the commencement of this Act before any Income tax authority, the Appellate Tribunal or any court, by way of appeal, reference or revision, shall be continued and disposed of as if this Act had not been passed,
- (d) where in respect of any assessment year after the year ending on the 31st day of March, 1940,—
  - (i) a notice under section 34 of the repealed Act had been issued before the commencement of this Act, the proceedings in pursuance of such notice may be continued and disposed of as if this Act had not been passed,
  - (ii) any income chargeable to tax had escaped assessment within the meaning of that expression in section 147 and no proceedings under section 34 of the repealed Act in respect of any such income are pending at the commencement of this Act, a notice under section 148 may, subject to the provisions contained in section 149 or section 150, be issued with respect to that assessment year and all the provisions of this Act shall apply accordingly,
- (e) \*[subject to the provisions of clause (g) and clause (j) of this sub-section] section 23A of the repealed Act shall continue to

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\* Inserted by s 19 of the Finance Act, 1963, with retrospective effect from the commencement of the Act

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have effect in relation to the assessment of any company or its shareholders for the assessment year ending on the 31st day of March, 1962, or any earlier year, and the provisions of the repealed Act shall apply to all matters arising out of such assessment as fully and effectually as if this Act had not been passed,

- (f) any proceeding for the imposition of a penalty in respect of any assessment completed before the 1st day of April, 1962, may be initiated and any such penalty may be imposed as if this Act had not been passed,
- (g) any proceeding for the imposition of a penalty in respect of any assessment for the year ending on the 31st day of March, 1962, or any earlier year, which is completed on or after the 1st day of April, 1962, may be initiated and any such penalty may be imposed under this Act,
- (h) any election or declaration made or option exercised by an assessee under any provision of the repealed Act and in force immediately before the commencement of this Act shall be deemed to have been an election or declaration made or option exercised under the corresponding provision of this Act,
- (i) where, in respect of any assessment completed before the commencement of this Act, a refund falls due after such commencement or default is made after such commencement in the payment of any sum due under such completed assessment, the provisions of this Act relating to interest payable by the Central Government on refunds and interest payable by the assessee for default shall apply,
- (j) any sum payable by way of income tax, super-tax, interest, penalty or otherwise under the repealed Act may be recovered under this Act, but without prejudice to any action already taken for the recovery of such sum under the repealed Act,
- (k) any agreement entered into, appointment made, approval given, recognition granted, direction, instruction, notification, order or rule issued under any provision of the repealed Act shall, so far as it is not inconsistent with the corresponding provision of this Act, be deemed to have been entered into, made, granted, given or issued under the corresponding provision aforesaid and shall continue in force accordingly,
- (l) any notification issued under sub-section (1) of section 60 of the repealed Act and in force immediately before the commencement of this Act shall, to the extent to which provision has not been made under this Act, continue in force until rescinded by the Central Government,
- (m) where the period prescribed for any application, appeal, reference or revision under the repealed Act had expired on or before the commencement of this Act, nothing in this Act shall be construed as enabling any such application, appeal, reference or revision to be made under this Act by reason only of the fact that a longer period therefor is prescribed or provision is made for extension of time in suitable cases by the appropriate authority

## THE FIRST SCHEDULE

### INSURANCE BUSINESS

[See section 44]

#### A —Life insurance business

1 Profits of life insurance business to be computed separately —In the case of a person who carries on or at any time in the previous year carried on life insurance business, the profits and gains of such person from that business shall be computed separately from his profits and gains from any other business

2 Computation of profits of life insurance business —(1) The profits and gains of life insurance business shall be taken to be the greater of the following —

- (a) the gross external incomings of the previous year from that business, less the management expenses of that year,
- (b) the annual average of the surplus arrived at by adjusting the surplus or deficit disclosed by the actuarial valuation made in accordance with the Insurance Act, 1938 (IV of 1938), in respect of the last inter-valuation period ending before the commencement of the assessment year, so as to exclude from it any surplus or deficit included therein which was made in any earlier inter-valuation period and any expenditure or allowance which is not deductible under the provisions of sections 30 to 43 in computing income chargeable under the head "Profits and gains of business or profession"

(2) The amount to be allowed as management expenses under sub-rule (1) shall not exceed the aggregate of the following —

- (a)  $7\frac{1}{2}$  per cent of the premiums received during the previous year in respect of single premium life insurance policies,
- (b) in respect of the first year's premiums received in respect of other life insurance policies for which the number of annual premiums payable is less than twelve, or for which the number of years during which premiums are payable is less than twelve, for each such premium or each such year  $7\frac{1}{2}$  per cent of such first year's premiums received during the previous year,
- (c) 90 per cent of the first year's premiums received during the previous year in respect of all other life insurance policies,
- (d) in respect of all renewal premiums received during the previous year, an amount calculated at such percentage thereof as is permissible under sub section (2) of section 40B of the Insurance Act, 1938 (IV of 1938), as reduced by any expenditure or allowance which is not deductible under sections 30 to 43 in computing income chargeable under the head "Profits and gains of business or profession"

3. Deductions —In computing the surplus for the purpose of rule 2,—

- (a) four-fifths of the amounts paid to or reserved for or expended on behalf of policy-holders shall be allowed as a deduction

Provided that if any amount so reserved for policy-holders ceases to be so reserved, and is not paid to or expended on behalf of policy-holders, that proportion of such amount (one-half or four-fifths, as the case may be) if it has been previously allowed as

a deduction under this Act or under the Indian Income-tax Act, 1922 (XI of 1922), shall be treated as part of the surplus for the period in which the said amount ceased to be so reserved ,

- (b) any amount either written off or reserved in the accounts or through the actuarial valuation balance sheet to meet depreciation of or loss on the realisation of investments shall be allowed as a deduction, and any sums taken credit for in the accounts or actuarial valuation balance sheet on account of appreciation of or gains on the realisation of investments shall be included in the surplus

Provided that if upon investigation it appears to the Income-tax Officer after consultation with the Controller of Insurance that having due regard to the necessity for making reasonable provision for bonuses to participating policy-holders and for contingencies, the rate of interest or other factor employed in determining the liability in respect of outstanding policies is materially inconsistent with the valuation of investments so as artificially to reduce the surplus, such adjustment shall be made to the allowance for depreciation or to the amount to be included in the surplus in respect of appreciation of such investments as shall increase the surplus for the purposes of these provisions to a figure which is fair and just ,

- (c) interest received during the inter-valuation period in respect of any securities of the Central Government which have been issued or declared to be income tax free, shall not be excluded, but no income-tax shall be payable on the annual average of the amount of such interest

**4 Adjustment of tax paid by deduction at source** —Where for any year an assessment of the profits of life insurance business is made in accordance with the annual average of a surplus disclosed by a valuation for an inter-valuation period exceeding twelve months, then, in computing the income-tax payable for that year, credit shall not be given in accordance with section 199 for the income-tax paid in the previous year, but credit shall be given for the annual average of the income-tax paid by deduction at source from interest on securities or otherwise during such period

### *B —Other insurance business*

**5 Computation of profits and gains of other insurance business** —The profits and gains of any business of insurance other than life insurance shall be taken to be the balance of the profits disclosed by the annual accounts, copies of which are required under the Insurance Act, 1938 (IV of 1938), to be furnished to the Controller of Insurance, subject to the following adjustments —

- (a) subject to the other provisions of this rule, any expenditure or allowance which is not admissible under the provisions of sections 30 to 43 in computing the profits and gains of a business shall be added back ,
- (b) any amount either written off or reserved in the accounts to meet depreciation of or loss on the realisation of investments shall be allowed as a deduction, and any sums taken credit for in the accounts on account of appreciation of or gains on the realisation of investments shall be treated as part of the profits and gains

Provided that the Income-tax Officer is satisfied about the reasonableness of the amount written off or reserved in the accounts, as the case may be, to meet depreciation of or loss on the realisation of investments,

- (c) such amount carried over to a reserve for unexpired risks as may be prescribed in this behalf shall be allowed as a deduction

### *C—Other provisions*

**6 Profits and gains of non-resident person**—(1) The profits and gains of the branches in India of a person not resident in India and carrying on any business of insurance, may, in the absence of more reliable data, be deemed to be that proportion of the world income of such person which corresponds to the proportion which his premium income derived from India bears to his total premium income

(2) For the purposes of this rule, the world income in relation to life insurance business of a person not resident in India shall be computed in the manner laid down in this Act for the computation of the profits and gains of life insurance business carried on in India

**7 Interpretation**—(1) For the purposes of these rules—

- (i) “gross external incomes” means the full amount of incomes from interest, dividends, fines and fees and all other incomes from whatever source derived (except premiums received from policy-holders and interest and dividends on any annuity fund), and includes also profits from reversions and on the sale or the granting of annuities, but excludes profits on the realisation of investments

Provided that incomes, including the annual value of the property occupied by the assessee, which but for the provisions of section 44 would have been assessable under the head “Income from house property”, shall be computed in the manner applicable to income chargeable under that head, and that there shall be allowed from such gross incomes such deductions as are permissible in respect of income chargeable under that head,

- (ii) “investments” includes securities, stocks and shares,
- (iii) “management expenses” means the full amount of expenses (including commissions) incurred exclusively in the management of the business of life insurance, and in the case of a company carrying on other classes of business as well as the business of life insurance, in addition thereto a fair proportion of the expenses incurred in the general management of the whole business. Bonuses or other sums paid to or reserved on behalf of policy-holders, depreciation of, and losses on the realisation of, investments, and any expenditure or allowance other than expenditure or allowance which may under the provisions of sections 30 to 43 be allowed for in computing the profits and gains of a business, are not management expenses for the purposes of these rules,
- (iv) “life insurance business” means life insurance business as defined in clause (11) of section 2 of the Insurance Act, 1938 (IV of 1938),
- (v) “rule” means a rule contained in this Schedule

(2) References in these rules to the Insurance Act, 1938 (IV of 1938), or any provision thereof, shall, in relation to the Life Insurance Corporation of India, be construed as references to that Act or provision as read with section 43 of the Life Insurance Corporation Act, 1956 (LXXI of 1956)

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## THE SECOND SCHEDULE

### PROCEDURE FOR RECOVERY OF TAX

[See section 222]

#### PART I

##### *General provisions*

**1 Definitions**—In this Schedule, unless the context otherwise requires,—

- (a) "certificate" means a certificate received by the Tax Recovery Officer from the Income-tax Officer for the recovery of arrears under this Schedule,
- (b) "defaulter" means the assessee mentioned in the certificate,
- (c) "execution", in relation to a certificate, means recovery of arrears in pursuance of the certificate,
- (d) "movable property" includes growing crops,
- (e) "officer" means a person authorised to make an attachment or sale under this Schedule,
- (f) "rule" means a rule contained in this Schedule, and
- (g) "share in a corporation" includes stock, debenture stock, debentures or bonds

**2 Issue of notice**—When a certificate has been received by the Tax Recovery Officer from the Income-tax Officer for the recovery of arrears under this Schedule, the Tax Recovery Officer shall cause to be served upon the defaulter a notice requiring the defaulter to pay the amount specified in the certificate within fifteen days from the date of service of the notice and intimating that in default steps would be taken to realise the amount under this Schedule

**3 When certificate may be executed**—No step in execution of a certificate shall be taken until the period of fifteen days has elapsed since the date of the service of the notice required by the preceding rule

Provided that, if the Tax Recovery Officer is satisfied that the defaulter is likely to conceal, remove or dispose of the whole or any part of such of his movable property as would be liable to attachment in execution of a decree of a civil court and that the realisation of the amount of the certificate would in consequence be delayed or obstructed, he may at any time direct, for reasons to be recorded in writing, an attachment of the whole or any part of such property

Provided further that if the defaulter whose property has been so attached furnishes security to the satisfaction of the Tax Recovery Officer, such attachment shall be cancelled from the date on which such security is accepted by the Tax Recovery Officer

**4 Mode of recovery**—If the amount mentioned in the notice is not paid within the time specified therein or within such further time as the Tax

Recovery Officer may grant in his discretion, the Tax Recovery Officer shall proceed to realise the amount by one or more of the following modes —

- (a) by attachment and sale of the defaulter's movable property,
- (b) by attachment and sale of the defaulter's immovable property,
- (c) by arrest of the defaulter and his detention in prison,
- (d) by appointing a receiver for the management of the defaulter's movable and immovable properties

5 Interest, costs and charges recoverable — There shall be recoverable, in the proceedings in execution of every certificate,—

- (a) such interest upon the amount of tax or penalty or other sum to which the certificate relates as is payable in accordance with sub section (2) of section 220, and
- (b) all charges incurred in respect of—
  - (i) the service of notice upon the defaulter to pay the arrears, and of warrants and other processes, and
  - (ii) all other proceedings taken for realising the arrears

6 Purchaser's title — (1) Where property is sold in execution of a certificate, there shall vest in the purchaser merely the right, title and interest of the defaulter at the time of the sale, even though the property itself be specified

(2) Where immovable property is sold in execution of a certificate, and such sale has become absolute, the purchaser's right, title and interest shall be deemed to have vested in him from the time when the property is sold, and not from the time when the sale becomes absolute

7 Suit against purchaser not maintainable on ground of purchase being made on behalf of plaintiff — (1) No suit shall be maintained against any person claiming title under a purchase certified by the Tax Recovery Officer in the manner laid down in this Schedule, on the ground that the purchase was made on behalf of the plaintiff or on behalf of some one through whom the plaintiff claims

(2) Nothing in this section shall bar a suit to obtain a declaration that the name of any purchaser certified as aforesaid was inserted in the certificate fraudulently or without the consent of the real purchaser, or interfere with the right of a third person to proceed against that property, though ostensibly sold to the certified purchaser, on the ground that it is liable to satisfy a claim of such third person against the real owner

8 Disposal of proceeds of execution — (1) Whenever assets are realised, by sale or otherwise in execution of a certificate, they shall be disposed of in the following manner —

- (a) there shall first be paid to the Income-tax Officer the costs incurred by him,
- (b) there shall, in the next place, be paid to the Income-tax Officer the amount due under the certificate in execution of which the assets were realised,
- (c) if there remains a balance after these sums have been paid, there shall be paid to the Income-tax Officer therefrom any other amount recoverable under the procedure provided by this Act which may be due upon the date upon which the assets were realised, and

(d) the balance (if any) remaining after the payment of the amount (if any) referred to in clause (c) shall be paid to the defaulter

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(2) If the defaulter disputes any claim made by the Income-tax Officer to receive any amount referred to in clause (c), the Tax Recovery Officer shall determine the dispute

**9 General bar to jurisdiction of civil courts, save where fraud alleged —** Except as otherwise expressly provided in this Act, every question arising between the Income-tax Officer and the defaulter or their representatives, relating to the execution, discharge or satisfaction of a certificate duly filed under this Act, or relating to the confirmation or setting aside by an order under this Act of a sale held in execution of such certificate, shall be determined, not by suit, but by order of the Tax Recovery Officer before whom such question arises

Provided that a suit may be brought in a civil court in respect of any such question upon the ground of fraud

**10 Property exempt from attachment —**(1) All such property as is by the Code of Civil Procedure, 1908 (V of 1908), exempted from attachment and sale in execution of a decree of a civil court shall be exempt from attachment and sale under this Schedule

(2) The Tax Recovery Officer's decision as to what property is so entitled to exemption shall be conclusive

**11 Investigation by Tax Recovery Officer —**(1) Where any claim is preferred to, or any objection is made to the attachment or sale of, any property in execution of a certificate, on the ground that such property is not liable to such attachment or sale, the Tax Recovery Officer shall proceed to investigate the claim or objection

Provided that no such investigation shall be made where the Tax Recovery Officer considers that the claim or objection was designedly or unnecessarily delayed

(2) Where the property to which the claim or objection applies has been advertised for sale, the Tax Recovery Officer ordering the sale may postpone it pending the investigation of the claim or objection, upon such terms as to security or otherwise as the Tax Recovery Officer shall deem fit

(3) The claimant or objector must adduce evidence to show that—

(a) (in the case of immovable property) at the date of the service of the notice issued under this Schedule to pay, the arrears, or

(b) (in the case of movable property) at the date of the attachment, he had some interest in, or was possessed of, the property in question

(4) Where, upon the said investigation, the Tax Recovery Officer is satisfied that, for the reason stated in the claim or objection, such property was not, at the said date, in the possession of the defaulter or of some person in trust for him or in the occupancy of a tenant or other person paying rent to him, or that, being in the possession of the defaulter at the said date, it was so in his possession, not on his own account or as his own property, but on account of or in trust for some other person, or partly on his own account and partly on account of some other person, the Tax Recovery Officer shall make an order releasing the property, wholly or to such extent as he thinks fit, from attachment or sale

(5) Where the Tax Recovery Officer is satisfied that the property was, at the said date, in the possession of the defaulter as his own property and



not on account of any other person, or was in the possession of some other person in trust for him, or in the occupancy of a tenant or other person paying rent to him, the Tax Recovery Officer shall disallow the claim

(6) Where a claim or an objection is preferred, the party against whom an order is made may institute a suit in a civil court to establish the right which he claims to the property in dispute, but, subject to the result of such suit (if any), the order of the Tax Recovery Officer shall be conclusive

**12 Removal of attachment on satisfaction or cancellation of certificate —**  
Where—

(a) the amount due, with costs and all charges and expenses resulting from the attachment of any property or incurred in order to hold a sale, are paid to the Tax Recovery Officer, or

(b) the certificate is cancelled,

the attachment shall be deemed to be withdrawn and, in the case of immovable property, the withdrawal shall, if the defaulter so desires, be proclaimed at his expense, and a copy of the proclamation shall be affixed in the manner provided by this Schedule for a proclamation of sale of immovable property

**13 Officer entitled to attach and sell —**The attachment and sale of movable property and the attachment and sale of immovable property may be made by such persons as the Tax Recovery Officer may from time to time direct

**14 Defaulting purchaser answerable for loss on resale —**Any deficiency of price which may happen on a resale by reason of the purchaser's default, and all expenses attending such resale, shall be certified to the Tax Recovery Officer by the officer holding the sale, and shall, at the instance of either the Income-tax Officer or the defaulter, be recoverable from the defaulting purchaser under the procedure provided by this Schedule

Provided that no such application shall be entertained unless filed within fifteen days from the date of resale

**15 Adjournment or stoppage of sale —**(1) The Tax Recovery Officer may, in his discretion, adjourn any sale hereunder to a specified day and hour, and the officer conducting any such sale may, in his discretion, adjourn the sale, recording his reasons for such adjournment

Provided that, where the sale is made in, or within the precincts of, the office of the Tax Recovery Officer, no such adjournment shall be made without the leave of the Tax Recovery Officer

(2) Where a sale of immovable property is adjourned under sub-rule (1) for a longer period than one calendar month, a fresh proclamation of sale under this Schedule shall be made unless the defaulter consents to waive it

(3) Every sale shall be stopped if, before the lot is knocked down, the arrears and costs (including the costs of the sale) are tendered to the officer conducting the sale, or proof is given to his satisfaction that the amount of such arrears and costs has been paid to the Tax Recovery Officer who ordered the sale

**16 Private alienation to be void in certain cases —**(1) Where a notice has been served on a defaulter under rule 2, the defaulter or his representative in interest shall not be competent to mortgage, charge, lease or otherwise deal with any property belonging to him except with the permission of the Tax Recovery Officer, nor shall any civil court issue any process against such property in execution of a decree for the payment of money

(2) Where an attachment has been made under this Schedule, any private transfer or delivery of the property attached or of any interest therein and any payment to the defaulter of any debt, dividend or other monies contrary to such attachment, shall be void as against all claims enforceable under the attachment

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**17 Prohibition against bidding or purchase by officer**—No officer or other person having any duty to perform in connection with any sale under this Schedule shall, either directly or indirectly, bid for, acquire or attempt to acquire any interest in the property sold

**18 Prohibition against sale on holidays**—No sale under this Schedule shall take place on a Sunday or other general holiday recognised by the State Government or on any day which has been notified by the State Government to be a local holiday for the area in which the sale is to take place

**19 Assistance by police**—Any officer authorised to attach or sell any property or to arrest the defaulter or charged with any duty to be performed under this Schedule, may apply to the officer-in-charge of the nearest police station for such assistance as may be necessary in the discharge of his duties, and the authority to whom such application is made shall depute a sufficient number of police officers for furnishing such assistance

**\*[19A Entrustment of certain functions by Collector or additional Collector**—A Tax Recovery Officer, being a Collector or an additional Collector, may, subject to the approval of the State Government, entrust any of his functions as Tax Recovery Officer to any other officer lower than him in rank who is empowered to effect recovery of arrears of land revenue or other public demand under any law relating to land revenue or other public demand for the time being in force in the State and such officer shall, in relation to functions so entrusted to him, be deemed to be a Tax Recovery Officer ]

## PART II

### *Attachment and sale of movable property*

#### *Attachment*

**20 Warrant**—Except as otherwise provided in this Schedule, when any movable property is to be attached, the officer shall be furnished by the Tax Recovery Officer (or other officer empowered by him in that behalf) a warrant in writing and signed with his name specifying the name of the defaulter and the amount to be realised

**21 Service of copy of warrant**—The officer shall cause a copy of the warrant to be served on the defaulter

**22 Attachment**—If, after service of the copy of the warrant, the amount is not paid forthwith, the officer shall proceed to attach the movable property of the defaulter

**23 Property in defaulter's possession**—Where the property to be attached is movable property (other than agricultural produce) in the possession of the defaulter, the attachment shall be made by actual seizure, and the officer shall keep the property in his own custody or the custody of one of his subordinates and shall be responsible for due custody thereof

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\*Inserted by s 20 of the Finance Act, 1963, with retrospective effect from the commencement of the Act

Provided that when the property seized is subject to speedy and natural decay or when the expense of keeping it in custody is likely to exceed its value, the officer may sell it at once

**24 Agricultural produce**—Where the property to be attached is agricultural produce, the attachment shall be made by affixing a copy of the warrant of attachment—

(a) where such produce is growing crop,—on the land on which such crop has grown, or

(b) where such produce has been cut or gathered,—on the threshing floor or place for treading out grain or the like, or fodder stack, on or in which it is deposited,

and another copy on the outer door or on some other conspicuous part of the house in which the defaulter ordinarily resides, or with the leave of the Tax Recovery Officer, on the outer door or on some other conspicuous part of the house in which he carries on business or personally works for gain, or in which he is known to have last resided or carried on business or personally worked for gain. The produce shall, thereupon, be deemed to have passed into the possession of the Tax Recovery Officer

**25 Provisions as to agricultural produce under attachment**—(1) Where agricultural produce is attached, the Tax Recovery Officer shall make such arrangements for the custody, watching, tending, cutting and gathering thereof as he may deem sufficient, and the Income tax Officer shall bear such sum as the Tax Recovery Officer shall require in order to defray the cost of such arrangements

(2) Subject to such conditions as may be imposed by the Tax Recovery Officer in this behalf, either in the order of attachment or in any subsequent order, the defaulter may tend, cut, gather and store the produce and do any other act necessary for maturing or preserving it, and, if the defaulter fails to do all or any of such acts, any person appointed by the Tax Recovery Officer in this behalf may, subject to the like conditions, do all or any of such acts, and the costs incurred by such person shall be recoverable from the defaulter as if they were included in the certificate

(3) Agricultural produce attached as a growing crop shall not be deemed to have ceased to be under attachment or to require re attachment merely because it has been severed from the soil

(4) Where an order for the attachment of a growing crop has been made at a considerable time before the crop is likely to be fit to be cut or gathered, the Tax Recovery Officer may suspend the execution of the order for such time as he thinks fit, and may, in his discretion, make a further order prohibiting the removal of the crop pending the execution of the order of attachment

(5) A growing crop which from its nature does not admit of being stored shall not be attached under this rule at any time less than twenty days before the time at which it is likely to be fit to be cut or gathered

**26 Debts and shares, etc**—(1) In the case of—

(a) a debt not secured by a negotiable instrument,

(b) a share in a corporation, or

(c) other movable property not in the possession of the defaulter except property deposited in, or in the custody of, any court,

the attachment shall be made by a written order prohibiting,—

- (2) in the case of the debt—the creditor from recovering the debt and the debtor from making payment thereof until the further order of the Tax Recovery Officer,
- (11) in the case of the share—the person in whose name the share may be standing from transferring the same or receiving any dividend thereon,
- (111) in the case of the other movable property (except as aforesaid)—the person in possession of the same from giving it over to the defaulter

(2) A copy of such order shall be affixed on some conspicuous part of the office of the Tax Recovery Officer, and another copy shall be sent, in the case of the debt, to the debtor, in the case of the share, to the proper officer of the corporation, and in the case of the other movable property (except as aforesaid), to the person in possession of the same

(3) A debtor prohibited under clause (1) of sub rule (1) may pay the amount of his debt to the Tax Recovery Officer, and such payment shall discharge him as effectually as payment to the party entitled to receive the same

**27 Attachment of decree**—(1) The attachment of a decree of a civil court for the payment of money or for sale in enforcement of a mortgage or charge shall be made by the issue to the civil court of a notice requesting the civil court to stay the execution of the decree unless and until—

- (1) the Tax Recovery Officer cancels the notice, or
- (11) the Income-tax Officer or the defaulter applies to the court receiving such notice to execute the decree

(2) Where a civil court receives an application under clause (11) of sub rule (1), it shall, on the application of the Income-tax Officer or the defaulter and subject to the provisions of the Code of Civil Procedure, 1908 (V of 1908), proceed to execute the attached decree and apply the net proceeds in satisfaction of the certificate

(3) The Income-tax Officer shall be deemed to be the representative of the holder of the attached decree, and to be entitled to execute such attached decree in any manner lawful for the holder thereof

**28 Share in movable property**—Where the property to be attached consists of the share or interest of the defaulter in movable property belonging to him and another as co owners, the attachment shall be made by a notice to the defaulter prohibiting him from transferring the share or interest or charging it in any way

**29 Salary of Government servants**—Attachment of the salary or allowances of servants of the Government or a local authority may be made in the manner provided by rule 48 of Order 21 of the First Schedule to the Code of Civil Procedure, 1908 (V of 1908), and the provisions of the said rule shall, for the purposes of this rule, apply subject to such modifications as may be necessary

**30 Attachment of negotiable instrument**—Where the property is a negotiable instrument not deposited in a court nor in the custody of a public officer, the attachment shall be made by actual seizure, and the instrument shall be brought before the Tax Recovery Officer and held subject to his orders

2 **31 Attachment of property in custody of court or public officer —**  
 II Where the property to be attached is in the custody of any court or public  
 9 officer, the attachment shall be made by a notice to such court or officer,  
 requesting that such property, and any interest or dividend becoming  
 payable thereon, may be held subject to the further orders of the Tax Recovery  
 Officer by whom the notice is issued

Provided that, where such property is in the custody of a court, any  
 question of title or priority arising between the Income-tax Officer and any  
 other person, not being the defaulter, claiming to be interested in such  
 property by virtue of any assignment, attachment or otherwise, shall be  
 determined by such court

**32 Attachment of partnership property —**(1) Where the property to be  
 attached consists of an interest of the defaulter, being a partner, in the  
 partnership property, the Tax Recovery Officer may make an order charging  
 the share of such partner in the partnership property and profits with pay-  
 ment of the amount due under the certificate, and may, by the same or  
 subsequent order, appoint a receiver of the share of such partner in the  
 profits, whether already declared or accruing and of any other money which  
 may become due to him in respect of the partnership, and direct accounts  
 and enquiries and make an order for the sale of such interest or such other  
 order as the circumstances of the case may require

(2) The other persons shall be at liberty at any time to redeem the  
 interest charged or, in the case of a sale being directed, to purchase the same

**33 Inventory —**In the case of attachment of movable property by  
 actual seizure, the officer shall, after attachment of the property, prepare  
 an inventory of all the property attached, specifying in it the place where it is  
 lodged or kept, and shall forward the same to the Tax Recovery Officer and  
 a copy of the inventory shall be delivered by the officer to the defaulter

**34 Attachment not to be excessive —**The attachment by seizure shall  
 not be excessive, that is to say, the property attached shall be as nearly as  
 possible proportionate to the amount specified in the warrant

**35 Seizure between sun rise and sun set —**Attachment by seizure shall  
 be made after sun-rise and before sun-set and not otherwise

**36 Power to break open doors, etc —**The officer may break open any  
 inner or outer door or window of any building and enter any building in  
 order to seize any movable property if the officer has reasonable grounds  
 to believe that such building contains movable property liable to seizure  
 under the warrant and the officer has notified his authority and intention of  
 breaking open if admission is not given He shall, however, give all reasonable  
 opportunity to women to withdraw

### *Sale*

**37 Sale —**The Tax Recovery Officer may direct that any movable  
 property attached under this Schedule or such portion thereof as may seem  
 necessary to satisfy the certificate shall be sold

**38 Issue of proclamation —**When any sale of movable property is  
 ordered by the Tax Recovery Officer, the Tax Recovery Officer shall issue a  
 proclamation, in the language of the district, of the intended sale, specifying  
 the time and place of sale and whether the sale is subject to confirmation  
 or not

**39 Proclamation how made —**(1) Such proclamation shall be made  
 by beat of drum or other customary mode,—

(a) in the case of property attached by actual seizure—

(i) in the village in which the property was seized, or, if the property was seized in a town or city, then, in the locality in which it was seized, and

(ii) at such other places as the Tax Recovery Officer may direct,

(b) in the case of property attached otherwise than by actual seizure, in such places, if any, as the Tax Recovery Officer may direct

(2) A copy of the proclamation shall also be affixed in a conspicuous part of the office of the Tax Recovery Officer

**40 Sale after fifteen days**—Except where the property is subject to speedy and natural decay or when the expense of keeping it in custody is likely to exceed its value, no sale of movable property under this Schedule shall, without the consent in writing of the defaulter, take place until after the expiry of at least fifteen days calculated from the date on which a copy of the sale-proclamation was affixed in the office of the Tax Recovery Officer.

**41. Sale of agricultural produce.**—(1) Where the property to be sold is agricultural produce, the sale shall be held,—

(a) if such produce is a growing crop—on or near the land on which such crop has grown, or

(b) if such produce has been cut or gathered—at or near the threshing-floor or place for treading out grain or the like, or fodder-stack, on or in which it is deposited

Provided that the Tax Recovery Officer may direct the sale to be held at the nearest place of public resort, if he is of opinion that the produce is thereby likely to sell to greater advantage

(2) Where, on the produce being put up for sale,—

(a) a fair price, in the estimation of the person holding the sale, is not offered for it, and

(b) the owner of the produce, or a person authorised to act on his behalf, applies to have the sale postponed till the next day or, if a market is held at the place of sale, the next market day,

the sale shall be postponed accordingly, and shall be then completed, whatever price may be offered for the produce

**42 Special provisions relating to growing crops**—(1) Where the property to be sold is a growing crop and the crop from its nature admits of being stored but has not yet been stored, the day of the sale shall be so fixed as to admit of the crop being made ready for storing before the arrival of such day, and the sale shall not be held until the crop has been cut or gathered and is ready for storing

(2) Where the crop from its nature does not admit of being stored or can be sold to a greater advantage in an unripe stage (*e g* as green wheat), it may be sold before it is cut and gathered, and the purchaser shall be entitled to enter on the land, and to do all that is necessary for the purpose of tending or cutting or gathering the crop

**43 Sale to be by auction**—The property shall be sold by public auction in one or more lots as the officer may consider advisable, and if the amount to be realised by sale is satisfied by the sale of a portion of the property, the sale shall be immediately stopped with respect to the remainder of the lots

2 44 Sale by public auction —(1) Where movable property is sold by  
 a If public auction, the price of each lot shall be paid at the time of sale or as  
 51 soon after as the officer holding the sale directs and in default of payment  
 the property shall forthwith be re sold

(2) On payment of the purchase-money, the officer holding the sale shall grant a certificate specifying the property purchased, the price paid and the name of the purchaser, and the sale shall become absolute

(3) Where the movable property to be sold is a share in goods belonging to the defaulter and a co owner, and two or more persons, of whom one is such co owner, respectively bid the same sum for such property or for any lot, the bidding shall be deemed to be the bidding of the co-owner

45 Irregularity not to vitiate sale, but any person injured may sue — No irregularity in publishing or conducting the sale of movable property shall vitiate the sale, but any person sustaining substantial injury by reason of such irregularity at the hand of any other person may institute a suit in a civil court against him for compensation, or (if such other person is the purchaser) for the recovery of the specific property and for compensation in default of such recovery

46 Negotiable instruments and shares in a corporation —Notwithstanding anything contained in this Schedule, where the property to be sold is a negotiable instrument or a share in a corporation, the Tax Recovery Officer may, instead of directing the sale to be made by public auction, authorise the sale of such instrument or share through a broker

47 Order for payment of coin or currency notes to the Income-tax Officer —Where the property attached is current coin or currency notes, the Tax Recovery Officer may, at any time during the continuance of the attachment, direct that such coin or notes, or a part thereof sufficient to satisfy the certificate, be paid over to the Income-tax Officer

### PART III

#### *Attachment and sale of immovable property*

##### *Attachment*

48 Attachment —Attachment of the immovable property of the defaulter shall be made by an order prohibiting the defaulter from transferring or charging the property in any way and prohibiting all persons from taking any benefit under such transfer or charge

49 Service of notice of attachment —A copy of the order of attachment shall be served on the defaulter

50 Proclamation of attachment —The order of attachment shall be proclaimed at some place on or adjacent to the property attached by beat of drum or other customary mode and a copy of the order shall be affixed on a conspicuous part of the property and on the notice board of the office of the Tax Recovery Officer

51 Attachment to relate back from the date of service of notice —Where any immovable property is attached under this Schedule, the attachment shall relate back to, and take effect from, the date on which the notice to pay the arrears, issued under this Schedule, was served upon the defaulter

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**52 Sale and proclamation of sale** —(1) The Tax Recovery Officer may direct that any immovable property which has been attached, or such portion thereof as may seem necessary to satisfy the certificate, shall be sold

(2) Where any immovable property is ordered to be sold, the Tax Recovery Officer shall cause a proclamation of the intended sale to be made in the language of the district

**53 Contents of proclamation** —A proclamation of sale of immovable property shall be drawn up after notice to the defaulter, and shall state the time and place of sale, and shall specify, as fairly and accurately as possible,—

- (a) the property to be sold,
- (b) the revenue, if any, assessed upon the property or any part thereof,
- (c) the amount for the recovery of which the sale is ordered, and
- (d) any other thing which the Tax Recovery Officer considers it material for a purchaser to know, in order to judge the nature and value of the property

**54 Mode of making proclamation** —(1) Every proclamation for the sale of immovable property shall be made at some place on or near such property by beat of drum or other customary mode, and a copy of the proclamation shall be affixed on a conspicuous part of the property and also upon a conspicuous part of the office of the Tax Recovery Officer

(2) Where the Tax Recovery Officer so directs, such proclamation shall also be published in the Official Gazette or in a local newspaper, or in both, and the cost of such publication shall be deemed to be costs of the sale

(3) Where the property is divided into lots for the purpose of being sold separately, it shall not be necessary to make a separate proclamation for each lot, unless proper notice of the sale cannot, in the opinion of the Tax Recovery Officer, otherwise be given

**55 Time of sale** —No sale of immovable property under this Schedule shall, without the consent in writing of the defaulter, take place until after the expiration of at least thirty days calculated from the date on which a copy of the proclamation of sale has been affixed on the property or in the office of the Tax Recovery Officer, whichever is later

**56 Sale to be by auction** —The sale shall be by public auction to the highest bidder and shall be subject to confirmation by the Tax Recovery Officer

**57 Deposit by purchaser and resale in default** —(1) On every sale of immovable property, the person declared to be the purchaser shall pay, immediately after such declaration, a deposit of twenty-five per cent on the amount of his purchase money, to the officer conducting the sale, and in default of such deposit, the property shall forthwith be re-sold

(2) The full amount of purchase money payable shall be paid by the purchaser to the Tax Recovery Officer on or before the fifteenth day from the date of the sale of the property

**58 Procedure in default of payment** —In default of payment within the period mentioned in the preceding rule, the deposit may, if the Tax Recovery Officer thinks fit, after defraying the expenses of the sale, be



2 forfeited to the Government, and the property shall be re sold, and the  
 II defaulting purchaser shall forfeit all claims to the property or to any part  
 of the sum for which it may subsequently be sold

63 59 Authority to bid —All persons bidding at the sale shall be required  
 to declare if they are bidding on their own behalf or on behalf of their princi-  
 pals In the latter case, they shall be required to deposit their authority,  
 and in default their bids shall be rejected

60 Application to set aside sale of immovable property on deposit —  
 (1) Where immovable property has been sold in execution of a certificate,  
 the defaulter, or any person whose interests are affected by the sale, may,  
 at any time within thirty days from the date of the sale, apply to the Tax  
 Recovery Officer to set aside the sale, on his depositing—

(a) for payment to the Income-tax Officer, the amount specified in  
 the proclamation of sale as that for the recovery of which the sale  
 was ordered, with interest thereon at the rate of six per cent  
 per annum, calculated from the date of the proclamation of  
 sale to the date when the deposit is made, and

(b) for payment to the purchaser, as penalty, a sum equal to five  
 per cent of the purchase money, but not less than one rupee

(2) Where a person makes an application under rule 61 for setting  
 aside the sale of his immovable property, he shall not, unless he withdraws  
 that application, be entitled to make or prosecute an application under  
 this rule

61 Application to set aside sale of immovable property on ground of  
 non-service of notice or irregularity —Where immovable property has  
 been sold in execution of a certificate, the Income tax Officer, the defaulter,  
 or any person whose interests are affected by the sale, may, at any time  
 within thirty days from the date of the sale, apply to the Tax Recovery  
 Officer to set aside the sale of the immovable property on the ground that  
 notice was not served on the defaulter to pay the arrears as required by  
 this Schedule or on the ground of a material irregularity in publishing or  
 conducting the sale

Provided that—

(a) no sale shall be set aside on any such ground unless the Tax  
 Recovery Officer is satisfied that the applicant has sustained  
 substantial injury by reason of the non-service or irregularity,  
 and

(b) an application made by a defaulter under this rule shall be  
 disallowed unless the applicant deposits the amount recoverable  
 from him in execution of the certificate

62 Setting aside sale where defaulter has no saleable interest.—At any  
 time within thirty days of the sale, the purchaser may apply to the Tax  
 Recovery Officer to set aside the sale on the ground that the defaulter had  
 no saleable interest in the property sold

63 Confirmation of sale —(1) Where no application is made for setting  
 aside the sale under the foregoing rules or where such an application is  
 made and disallowed by the Tax Recovery Officer, the Tax Recovery Officer  
 shall (if the full amount of the purchase-money has been paid) make an  
 order confirming the sale, and, thereupon, the sale shall become absolute

(2) Where such application is made and allowed, and where, in the  
 case of an application made to set aside the sale on deposit of the amount

and penalty and charges, the deposit is made within thirty days from the date of the sale, the Tax Recovery Officer shall make an order setting aside the sale

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Provided that no order shall be made unless notice of the application has been given to the persons affected thereby

**64 Return of purchase money in certain cases**—Where a sale of immovable property is set aside, any money paid or deposited by the purchaser on account of the purchase, together with the penalty, if any, deposited for payment to the purchaser, and such interest as the Tax Recovery Officer may allow, shall be paid to the purchaser

**65 Sale certificate**—(1) Where a sale of immovable property has become absolute, the Tax Recovery Officer shall grant a certificate specifying the property sold, and the name of the person who at the time of sale is declared to be the purchaser

(2) Such certificate shall state the date on which the sale became absolute

**66 Postponement of sale to enable defaulter to raise amount due under certificate**—(1) Where an order for the sale of immovable property has been made, if the defaulter can satisfy the Tax Recovery Officer that there is reason to believe that the amount of the certificate may be raised by the mortgage or lease or private sale of such property, or some part thereof, or of any other immovable property of the defaulter, the Tax Recovery Officer may, on his application, postpone the sale of the property comprised in the order for sale, on such terms and for such period as he thinks proper, to enable him to raise the amount

(2) In such case, the Tax Recovery Officer shall grant a certificate to the defaulter, authorising him, within a period to be mentioned therein, and notwithstanding anything contained in this Schedule, to make the proposed mortgage, lease or sale

Provided that all moneys payable under such mortgage, lease or sale shall be paid, not to the defaulter, but to the Tax Recovery Officer

Provided also that no mortgage, lease or sale under this rule shall become absolute until it has been confirmed by the Tax Recovery Officer

**67 Fresh proclamation before re sale**—Every re sale of immovable property, in default of payment of the purchase-money within the period allowed for such payment, shall be made after the issue of a fresh proclamation in the manner and for the period hereinbefore provided for the sale

**68 Bid of co-sharer to have preference**—Where the property sold is a share of undivided immovable property, and two or more persons, of whom one is a co-sharer, respectively bid the same sum for such property or for any lot, the bid shall be deemed to be the bid of the co sharer

## PART IV

### *Appointment of receiver*

**69 Appointment of receiver for business**—(1) Where the property of a defaulter consists of a business, the Tax Recovery Officer may attach the business and appoint a person as receiver to manage the business

(2) Attachment of a business under this rule shall be made by an order prohibiting the defaulter from transferring or charging the business in any

way and prohibiting all persons from taking any benefit under such transfer or charge, and intimating that the business has been attached under this rule. A copy of the order of attachment shall be served on the defaulter, and another copy shall be affixed on a conspicuous part of the premises in which the business is carried on and on the notice board of the office of the Tax Recovery Officer.

**70 Appointment of receiver for immovable property**—Where immovable property is attached, the Tax Recovery Officer may, instead of directing a sale of the property, appoint a person as receiver to manage such property.

**71 Powers of receiver**—(1) Where any business or other property is attached and taken under management under the foregoing rules, the receiver shall, subject to the control of the Tax Recovery Officer, have such powers as may be necessary for the proper management of the property and the realisation of the profits, or rents and profits, thereof.

(2) The profits, or rents and profits, of such business or other property, shall, after defraying the expenses of management, be adjusted towards discharge of the arrears, and the balance, if any, shall be paid to the defaulter.

**72 Withdrawal of management**—The attachment and management under the foregoing rules may be withdrawn at any time at the discretion of the Tax Recovery Officer, or if the arrears are discharged by receipt of such profits and rents or are otherwise paid.

## PART V

### *Arrest and detention of the defaulter*

**73 Notice to show cause**—(1) No order for the arrest and detention in civil prison of a defaulter shall be made unless the Tax Recovery Officer has issued and served a notice upon the defaulter calling upon him to appear before him on the date specified in the notice and to show cause why he should not be committed to the civil prison, and unless the Tax Recovery Officer, for reasons recorded in writing, is satisfied—

(a) that the defaulter, with the object or effect of obstructing the execution of the certificate, has, after the receipt of the certificate in the office of the Tax Recovery Officer, dishonestly transferred, concealed, or removed any part of his property, or

(b) that the defaulter has, or has had since the receipt of the certificate in the office of the Tax Recovery Officer, the means to pay the arrears or some substantial part thereof and refuses or neglects or has refused or neglected to pay the same.

(2) Notwithstanding anything contained in sub rule (1), a warrant for the arrest of the defaulter may be issued by the Tax Recovery Officer if the Tax Recovery Officer is satisfied, by affidavit or otherwise, that with the object or effect of delaying the execution of the certificate, the defaulter is likely to abscond or leave the local limits of the jurisdiction of the Tax Recovery Officer.

(3) Where appearance is not made in obedience to a notice issued and served under sub rule (1), the Tax Recovery Officer may issue a warrant for the arrest of the defaulter.

(4) Every person arrested in pursuance of a warrant of arrest under sub rule (2) or sub rule (3) shall be brought before the Tax Recovery Officer

as soon as practicable and in any event within twenty four hours of his arrest (exclusive of the time required for the journey)

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Provided that, if the defaulter pays the amount entered in the warrant of arrest as due and the costs of the arrest to the officer arresting him, such officer shall at once release him

**74 Hearing**—When a defaulter appears before the Tax Recovery Officer in obedience to a notice to show cause or is brought before the Tax Recovery Officer under rule 73, the Tax Recovery Officer shall proceed to hear the Income-tax Officer and take all such evidence as may be produced by him in support of execution by arrest, and shall then give the defaulter an opportunity of showing cause why he should not be committed to the civil prison

**75 Custody pending hearing**—Pending the conclusion of the inquiry, the Tax Recovery Officer may, in his discretion, order the defaulter to be detained in the custody of such officer as the Tax Recovery Officer may think fit or release him on his furnishing security to the satisfaction of the Tax Recovery Officer for his appearance when required

**76 Order of detention**—(1) Upon the conclusion of the inquiry, the Tax Recovery Officer may make an order for the detention of the defaulter in the civil prison and shall in that event cause him to be arrested if he is not already under arrest

Provided that in order to give the defaulter an opportunity of satisfying the arrears, the Tax Recovery Officer may, before making the order of detention, leave the defaulter in the custody of the officer arresting him or of any other officer for a specified period not exceeding 15 days, or release him on his furnishing security to the satisfaction of the Tax Recovery Officer for his appearance at the expiration of the specified period if the arrears are not so satisfied

(2) When the Tax Recovery Officer does not make an order of detention under sub rule (1) he shall, if the defaulter is under arrest, direct his release

**77 Detention in and release from prison**—(1) Every person detained in the civil prison in execution of a certificate may be so detained,—

(a) where the certificate is for a demand of an amount exceeding two hundred and fifty rupees—for a period of six months, and

(b) in any other case—for a period of six weeks

Provided that he shall be released from such detention—

(i) on the amount mentioned in the warrant for his detention being paid to the officer-in-charge of the civil prison, or

(ii) on the request of the Income tax Officer who has issued the certificate or of the Tax Recovery Officer on any ground other than the grounds mentioned in rules 78 and 79

Provided that where he is to be released on the request of the Income tax Officer, he shall not so be released without the order of the Tax Recovery Officer

(2) A defaulter released from detention under this rule shall not, merely by reason of his release, be discharged from his liability for the arrears, but he shall not be liable to be re-arrested under the certificate in execution of which he was detained in the civil prison

**78. Release**—(1) The Tax Recovery Officer may order the release of a defaulter who has been arrested in execution of a certificate upon being satisfied that he has disclosed the whole of his property and has placed it

2 at the disposal of the Tax Recovery Officer and that he has not committed  
II any act of bad faith

2 (2) If the Tax Recovery Officer has ground for believing the disclosure made by a defaulter under sub rule (1) to have been untrue, he may order the re arrest of the defaulter in execution of the certificate, but the period of his detention in the civil prison shall not in the aggregate exceed that authorised by rule 77

**79 Release on ground of illness.**—(1) At any time after a warrant for the arrest of a defaulter has been issued, the Tax Recovery Officer may cancel it on the ground of his serious illness

(2) Where a defaulter has been arrested, the Tax Recovery Officer may release him if, in the opinion of the Tax Recovery Officer, he is not in a fit state of health to be detained in the civil prison

(3) Where a defaulter has been committed to the civil prison, he may be released therefrom by the Tax Recovery Officer on the ground of the existence of any infectious or contagious disease, or on the ground of his suffering from any serious illness

(4) A defaulter released under this rule may be re arrested, but the period of his detention in the civil prison shall not in the aggregate exceed that authorised by rule 77

**80 Entry into dwelling house**—For the purpose of making an arrest under this Schedule—

(a) no dwelling house shall be entered after sun-set and before sun-rise,

(b) no outer door of a dwelling house shall be broken open unless such dwelling house or a portion thereof is in the occupancy of the defaulter and he or other occupant of the house refuses or in any way prevents access thereto, but, when the person executing any such warrant has duly gained access to any dwelling house, he may break open the door of any room or apartment if he has reason to believe that the defaulter is likely to be found there,

(c) no room, which is in the actual occupancy of a woman who, according to the customs of the country, does not appear in public, shall be entered into unless the officer authorised to make the arrest has given notice to her that she is at liberty to withdraw and has given her reasonable time and facility for withdrawing

**81 Prohibition against arrest of women or minors, etc**—The Tax Recovery Officer shall not order the arrest and detention in the civil prison of—

(a) a woman, or

(b) any person who, in his opinion, is a minor or of unsound mind

## PART VI

### *Miscellaneous*

**82 Officers deemed to be acting judicially**—Every Tax Recovery Officer or other officer acting under this Schedule shall, in the discharge of his functions under this Schedule, be deemed to be acting judicially

within the meaning of the Judicial Officers Protection Act, 1850 (XVIII of 1850) Div. 2  
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**83 Power to take evidence**—Every Tax Recovery Officer or other officer acting under the provisions of this Schedule shall have the powers of a civil court while trying a suit for the purpose of receiving evidence, administering oaths, enforcing the attendance of witnesses and compelling the production of documents

**84 Continuance of certificate**—No certificate shall cease to be in force by reason of the death of the defaulter

**85 Procedure on death of defaulter**—If at any time after the issue of the certificate by the Income-tax Officer to the Tax Recovery Officer the defaulter dies, the proceedings under this Schedule (except arrest and detention) may be continued against the legal representative of the defaulter, and the provisions of this Schedule shall apply as if the legal representative were the defaulter

**86 Appeals.**—\*(1) An appeal from any original order passed by the Tax Recovery Officer under this Schedule, not being an order which is conclusive, shall lie—

(a) in the case of a Tax Recovery Officer, being a Collector or an additional Collector or an officer referred to in sub-clause (iii) of clause (44) of section 2, to the revenue authority to which appeals ordinarily lie against the orders of a Collector under the law relating to land revenue of the State concerned, and

(b) in any other case, to the revenue authority to which an appeal or an application for revision would ordinarily lie, if the order passed by him were the order under the law relating to land revenue or other public demand for the time being in force in the State concerned ]

(2) Every appeal under this rule must be presented within thirty days from the date of the order appealed against

(3) Pending the decision of any appeal, execution of the certificate may be stayed if the appellate authority so directs, but not otherwise

**87 Review**—Any order passed under this Schedule may, after notice to all persons interested, be reviewed by the officer who made the order, or by his successor in office, on account of any mistake apparent from the record

**88 Recovery from surety**—Where any person has under this Schedule become surety for the amount due by the defaulter, he may be proceeded against under this Schedule as if he were the defaulter

**89 Penalties**—Whoever fraudulently removes, conceals, transfers or delivers to any person any property or any interest therein, intending thereby to prevent that property or interest therein, from being taken in execution of a certificate, shall be deemed to have committed an offence punishable under section 206 of the Indian Penal Code (XLV of 1860)

**90 Subsistence allowance**—(1) When a defaulter is arrested or detained in the civil prison, the sum payable for the subsistence of the defaulter from the time of arrest until he is released shall be borne by the Income-tax Officer

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\* Substituted by s 20 of the Finance Act, 1963, with retrospective effect from the commencement of the Act

(2) Such sum shall be calculated on the scale fixed by the State Government for the subsistence of judgment debtors arrested in execution of a decree of a civil court

(3) Sums payable under this rule shall be deemed to be costs in the proceeding

Provided that the defaulter shall not be detained in the civil prison or arrested on account of any sum so payable

**91 Forms**—The Board may prescribe the form to be used for any order, notice, warrant, or certificate to be issued under this Schedule

**92 Power to make rules**—(1) The Board may make rules, consistent with the provisions of this Act, regulating the procedure to be followed by Tax Recovery Officers and other officers acting under this Schedule

(2) In particular, and without prejudice to the generality of the power conferred by sub rule (1), such rules may provide for all or any of the following matters, namely —

- (a) the area within which Tax Recovery Officers may exercise jurisdiction,
- (b) the manner in which any property sold under this Schedule may be delivered,
- (c) the execution of a document or the endorsement of a negotiable instrument or a share in a corporation, by or on behalf of the Tax Recovery Officer, where such execution or endorsement is required to transfer such negotiable instrument or share to a person who has purchased it under a sale under this Schedule,
- (d) the procedure for dealing with resistance or obstruction offered by any person to a purchaser of any immovable property sold under this Schedule, in obtaining possession of the property,
- (e) the fees to be charged for any process issued under this Schedule,
- (f) the scale of charges to be recovered in respect of any other proceeding taken under this Schedule,
- (g) recovery of poundage fee,
- (h) the maintenance and custody, while under attachment, of livestock or other movable property, the fees to be charged for such maintenance and custody, the sale of such livestock or property, and the disposal of proceeds of such sale,
- (i) the mode of attachment of business

**93 Saving regarding charge**—Nothing in this Schedule shall affect any provision of this Act whereunder the tax is a first charge upon any asset

### THE THIRD SCHEDULE

#### PROCEEDURE FOR DISTRAINT BY INCOME-TAX OFFICER

[See section 226(5)]

**Distraint and sale**—Where any distraint and sale of movable property are to be effected by any Income-tax Officer authorised for the purpose, such distraint and sale shall be made, as far as may be, in the same manner as attachment and sale of any movable property attachable by actual seizure, and the provisions of the Second Schedule relating to attachment and sale shall, so far as may be, apply in respect of such distraint and sale

# THE FOURTH SCHEDULE

## PART A

### *Recognised provident funds*

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Sch. IV  
Part A

(Rr 67-  
81)

[See sections 2(38), 10(12), 10(25), 36(1)(iv), 87(1)(d), 111, 192(4)]

**1 Application of Part**—This Part shall not apply to any provident fund to which the Provident Funds Act, 1925 (XIX of 1925), applies

**2 Definitions**—In this Part, unless the context otherwise requires,—

- (a) “employee” means any person who maintains a provident fund for the benefit of his or its employees, being—
  - (i) a Hindu undivided family, company, firm or other association of persons, or
  - (ii) an individual engaged in a business or profession the profits and gains whereof are assessable to income tax under the head “Profits and gains of business or profession”,
- (b) “employee” means an employee participating in a provident fund, but does not include a personal or domestic servant,
- (c) “contribution” means any sum credited by or on behalf of any employee out of his salary, or by an employer out of his own monies, to the individual account of an employee, but does not include any sum credited as interest,
- (d) “balance to the credit of an employee” means the total amount to the credit of his individual account in a provident fund at any time,
- (e) “annual accretion” in relation to the balance to the credit of an employee, means the increase to such balance in any year, arising from contributions and interest,
- (f) “accumulated balance due to an employee” means the balance to his credit, or such portion thereof as may be claimable by him under the regulations of the fund, on the day he ceases to be an employee of the employer maintaining the fund,
- (g) “regulations of a fund” means the special body of regulations governing the constitution and administration of a particular provident fund, and
- (h) “salary” includes dearness allowance, if the terms of employment so provide, but excludes all other allowances and perquisites

**3 According and withdrawal of recognition**—(1) The Commissioner may accord recognition to any provident fund which, in his opinion satisfies the conditions prescribed in rule 4 and the rules made by the Board in this behalf, and may, at any time, withdraw such recognition if, in his opinion, the provident fund contravenes any of those conditions

(2) An order according recognition shall take effect on such date as the Commissioner may fix in accordance with any rules the Board may make in this behalf; such date not being later than the last day of the financial year in which the order is made

(3) An order withdrawing recognition shall take effect from the date on which it is made



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Sch IV  
Part A

(4) An order according recognition to a provident fund shall not, unless the Commissioner otherwise directs, be affected by the fact that the fund is subsequently amalgamated with another provident fund on the occurrence of an amalgamation of the undertakings in connection with which the two funds are maintained, or that it subsequently absorbs the whole or a part of another provident fund belonging to an undertaking which is wholly or in part transferred to or merged in the undertaking of the employer maintaining the first-mentioned fund

4 Conditions to be satisfied by recognised provident funds.—In order that a provident fund may receive and retain recognition, it shall, subject to the provisions of rule 5, satisfy the conditions set out below and any other conditions which the Board may, by rules, specify—

- (a) all employees shall be employed in India, or shall be employed by an employer whose principal place of business is in India
- (b) the contributions of an employee in any year shall be a definite proportion of his salary for that year, and shall be deducted by the employer from the employee's salary in that proportion, at each periodical payment of such salary in that year, and credited to the employee's individual account in the fund,
- (c) the contributions of an employer to the individual account of an employee in any year shall not exceed the amount of the contributions of the employee in that year, and shall be credited to the employee's individual account at intervals not exceeding one year,
- (d) the fund shall be vested in two or more trustees or in the Official Trustee under a trust which shall not be revocable, save with the consent of all the beneficiaries,
- (e) the fund shall consist of contributions as above specified, received by the trustees, of accumulations thereof, and of interest credited in respect of such contributions and accumulations, and of securities purchased therewith and of any capital gains arising from the transfer of capital assets of the fund, and of no other sums,
- (f) the employer shall not be entitled to recover any sum whatsoever from the fund, save in cases where the employee is dismissed for misconduct or voluntarily leaves his employment otherwise than on account of ill-health or other unavoidable cause before the expiration of the term of service specified in this behalf in the regulations of the fund

Provided that in such cases the recoveries made by the employer shall be limited to the contributions made by him to the individual account of the employee, and to interest credited in respect of such contributions in accordance with the regulations of the fund and the accumulations thereof,

- (g) the accumulated balance due to an employee shall be payable on the day he ceases to be an employee of the employer maintaining the fund,
- (h) save as provided in clause (g) or in accordance with such conditions and restrictions as the Board may, by rules, specify, no portion of the balance to the credit of an employee shall be payable to him

5 Relaxation of conditions.—(1) Notwithstanding anything contained in clause (a) of rule 4 the Commissioner may, if he thinks fit, and subject

to such conditions, if any, as he thinks proper to attach to the recognition, accord recognition to a fund maintained by an employer whose principal place of business is not in India, provided the proportion of employees employed outside India does not exceed ten per cent

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Sch IV  
Part A

(2) Notwithstanding anything contained in clause (b) of rule 4, an employee who retains his employment while serving in the armed forces of the Union or when taken into or employed in the national service under any law for the time being in force, may, whether he receives from the employer any salary or not, contribute to the fund during his service in the armed forces of the Union or while so taken into or employed in the national service a sum not exceeding the amount he would have contributed had he continued to serve the employer

(3) Notwithstanding anything contained in clause (e) or clause (g) of rule 4,—

(a) at the request made in writing by the employee who ceases to be an employee of the employer maintaining the fund, the trustees of the fund may consent to retain the whole or any part of the accumulated balance due to the employee to be drawn by him at any time on demand ,

(b) where the accumulated balance due to an employee who has ceased to be an employee is retained in the fund in accordance with the preceding clause, the fund may consist also of interest in respect of such accumulated balance

(4) Subject to any rules which the Board may make in this behalf, the Commissioner may, in respect of any particular fund, relax the provisions of clause (c) of rule 4,—

(a) so as to permit the payment of larger contributions by an employer to the individual accounts of employees whose salaries do not in each case exceed five hundred rupees per mensem , and

(b) so as to permit the crediting by employers to the individual accounts of employees of periodical bonuses or other contributions of a contingent nature, where the calculation and payment of such bonuses or other contributions is provided for on definite principles by the regulations of the fund

(5) Notwithstanding anything contained in clause (h) of rule 4, in order to enable an employee to pay the amount of tax assessed on his total income as determined under sub-rule (4) of rule 11, he shall be entitled to withdraw from the balance to his credit in the recognised provident fund a sum not exceeding the difference between such amount and the amount to which he would have been assessed if the transferred balance referred to in sub-rule (2) of rule 11 had not been included in his total income

**6 Employer's annual contributions, when deemed to be income received by employee**—That portion of the annual accretion in any previous year to the balance at the credit of an employee participating in a recognised provident fund as consists of—

(a) contributions made by the employer in excess of ten per cent of the salary of the employee, and

(b) interest credited on the balance to the credit of the employee in so far as it exceeds one-third of the salary of the employee or is allowed at a rate exceeding such rate as may be fixed by the Central Government in this behalf by notification in the Official Gazette,

shall be deemed to have been received by the employee in that previous year and shall be included in his total income for that previous year, and shall be liable to income tax and super-tax

**7 Exemption for employee's contributions**—An employee participating in a recognised provident fund shall be entitled to a deduction from the amount of income tax on his total income with which he is chargeable for any assessment year, of an amount equal to the income tax calculated at the average rate of income tax on his own contributions to his individual account in the fund in the previous year, in so far as the aggregate of such contributions does not exceed one fifth of his salary in that previous year or eight thousand rupees, whichever is less

**8 Exclusion from total income of accumulated balance**—The accumulated balance due and becoming payable to an employee participating in a recognised provident fund shall be excluded from the computation of his total income—

- (i) if he has rendered continuous service with his employer for a period of five years or more, or
- (ii) if, though he has not rendered such continuous service, the service has been terminated by reason of the employee's ill health, or by the contraction or discontinuance of the employer's business or other cause beyond the control of the employee

**9 Tax on accumulated balance**—(1) Where the accumulated balance due to an employee participating in a recognised provident fund is included in his total income owing to the provisions of rule 8 not being applicable, the Income tax Officer shall calculate the total of the various sums of income tax and super tax which would have been payable by the employee in respect of his total income for each of the years concerned if the fund had not been a recognised provident fund, and the amount by which such total exceeds the total of all sums paid by or on behalf of such employee by way of tax for such years shall be payable by the employee in addition to any other income tax and super-tax for which he may be liable for the previous year in which the accumulated balance due to him becomes payable

(2) Where the accumulated balance due to an employee participating in a recognised provident fund which is not included in his total income under the provisions of rule 8 becomes payable, an amount equal to the aggregate of the amounts of super-tax on annual accretions that would have been payable under section 58E of the Indian Income tax Act, 1922 (XI of 1922), for any assessment year up to and including the assessment year 1932-1933, if the Indian Income tax (Second Amendment) Act, 1933 (XVIII of 1933), had come into force on the 15th day of March, 1930, shall be payable by the employee in addition to any other tax payable by him for the previous year in which such balance becomes payable

**10 Deduction at source of tax payable on accumulated balance**—The trustees of a recognised provident fund, or any person, authorised by the regulations of the fund to make payment of accumulated balances due to employees, shall, in cases where sub rule (1) of rule 9 applies, at the time an accumulated balance due to an employee is paid, deduct therefrom the amount payable under that rule and all the provisions of Chapter XVII B shall apply as if the accumulated balance were income chargeable under the head "Salaries"

**11 Treatment of balance in newly recognised provident fund**—(1) Where recognition is accorded to a provident fund with existing balances,

an account shall be made of the fund up to the day immediately preceding the day on which the recognition takes effect, showing the balance to the credit of each employee on such day, and containing such further particulars as the Board may prescribe

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Part A

(2) The account shall also show in respect of the balance to the credit of each employee the amount thereof which is to be transferred to that employee's account in the recognised provident fund, and such amount (hereinafter called his transferred balance) shall be shown as the balance to his credit in the recognised provident fund on the date on which the recognition of the fund takes effect, and sub-rule (4) of this rule and sub-rule (5) of rule 5 shall apply thereto

(3) Any portion of the balance to the credit of an employee in the existing fund which is not transferred to the recognised fund shall be excluded from the accounts of the recognised fund and shall be liable to income tax and super-tax in accordance with the provisions of this Act, other than this Part

(4) Subject to such rules as the Board may make in this behalf, the Income-tax Officer shall make a calculation of the aggregate of all sums comprised in a transferred balance which would have been liable to income-tax if this Part had been in force from the date of the institution of the fund, without regard to any tax which may have been paid on any sum, and such aggregate (if any) shall be deemed to be income received by the employee in the previous year in which the recognition of the fund takes effect and shall be included in the employee's total income for that previous year, and, for the purposes of assessment, the remainder of the transferred balance shall be disregarded, but no other exemption or relief, by way of refund or otherwise, shall be granted in respect of any sum comprised in such transferred balance

Provided that, in cases of serious accounting difficulty, the Commissioner may, subject to the said rules, make a summary calculation of such aggregate

(5) Nothing in this rule shall affect the rights of the persons administering an unrecognised provident fund or dealing with it, or with the balance to the credit of any individual employee before recognition is accorded, in any manner which may be lawful

**12 Accounts of recognised provident funds**—(1) The accounts of a recognised provident fund shall be maintained by the trustees of the fund and shall be in such form and for such periods, and shall contain such particulars, as the Board may prescribe

(2) The accounts shall be open to inspection at all reasonable times by Income-tax authorities, and the trustees shall furnish to the Income tax Officer such abstracts thereof as the Board may prescribe

**13 Appeals**—(1) An employer objecting to an order of the Commissioner refusing to recognise or an order withdrawing recognition from a provident fund may appeal, within sixty days of such order, to the Board

(2) The appeal shall be in such form and shall be verified in such manner and shall be subject to the payment of such fee as the Board may prescribe

**14 Treatment of fund transferred by employer to trustee**—(1) Where an employer, who maintains a provident fund (whether recognised or not) for the benefit of his employees and has not transferred the fund or any portion of it, transfers such fund or portion to trustees in trust for the employees participating in the fund, the amount so transferred shall be deemed to be of the nature of capital expenditure

(2) When an employee participating in such fund is paid the accumulated balance due to him therefrom, any portion of such balance as represents his share in the amount so transferred to the trustees (without addition of interest, and exclusive of the employee's contributions and interest thereon) shall, if the employer has made effective arrangements to secure that tax shall be deducted at source from the amount of such share when paid to the employee, be deemed to be an expenditure by the employer within the meaning of section 37, incurred in the previous year in which the accumulated balance due to the employee is paid

15 Provisions relating to rules —(1) In addition to any power conferred by this Part, the Board may make rules—

- (a) prescribing the statements and other information to be submitted along with an application for recognition ,
- (b) limiting the contributions to a recognised provident fund by employees of a company who are shareholders in the company,
- (c) providing for the assessment by way of penalty of any consideration received by an employee for an assignment of, or creation of a charge upon, his beneficial interest in a recognised provident fund ,
- (d) determining the extent to and the manner in which exemption from payment of income-tax and super-tax may be granted in respect of contributions and interest credited to the individual accounts of employees in a provident fund from which recognition has been withdrawn , and
- (e) generally, to carry out the purposes of this Part and to secure such further control over the recognition of provident funds and the administration of recognised provident funds as it may deem requisite

(2) All rules made under this Part shall be subject to the provisions of section 296

## PART B

### *Approved superannuation funds*

[See sections 2(6), 10(13), 10(25)(iii), 36(1)(v), 87(1)(e), 192(5), 206(2)]

1 Definitions —In this Part, unless the context otherwise requires, "employer", "employee", "contribution" and "salary" have, in relation to superannuation funds, the meanings assigned to those expressions in rule 2 of Part A in relation to provident funds

2 Approval and withdrawal of approval —(1) The Commissioner may accord approval to any superannuation fund or any part of a superannuation fund which, in his opinion, complies with the requirements of rule 3, and may at any time withdraw such approval, if in his opinion, the circumstances of the fund or part cease to warrant the continuance of the approval

(2) The Commissioner shall communicate in writing to the trustees of the fund the grant of approval with the date on which the approval is to take effect, and, where the approval is granted subject to conditions, those conditions

(3) The Commissioner shall communicate in writing to the trustees of the fund any withdrawal of approval with the reasons for such withdrawal and the date on which the withdrawal is to take effect

(4) The Commissioner shall neither refuse nor withdraw approval to any superannuation fund or any part of a superannuation fund unless he has given the trustees of that fund a reasonable opportunity of being heard in the matter

**3 Conditions for approval**—In order that a superannuation fund may receive and retain approval, it shall satisfy the conditions set out below and any other conditions which the Board may, by rules, prescribe—

- (a) the fund shall be a fund established under an irrevocable trust in connection with a trade or undertaking carried on in India, and not less than ninety per cent of the employees shall be employed in India ,
- (b) the fund shall have for its sole purpose the provision of annuities for employees in the trade or undertaking on their retirement at or after a specified age or on their becoming incapacitated prior to such retirement, or for the widows, children or dependants of persons who are or have been such employees on the death of those persons ,
- (c) the employer in the trade or undertaking shall be a contributor to the fund , and
- (d) all annuities, pensions and other benefits granted from the fund shall be payable only in India

**4 Application for approval**—(1) An application for approval of a superannuation fund or part of a superannuation fund shall be made in writing by the trustees of the fund to the Income-tax Officer by whom the employer is assessable, and shall be accompanied by a copy of the instrument under which the fund is established and by two copies of the rules and of the accounts of the fund for the last year for which such accounts have been made up, but the Commissioner may require such further information to be supplied as he thinks proper

(2) If any alteration in the rules, constitution, objects or conditions of the fund is made at any time after the date of the application for approval, the trustees of the fund shall forthwith communicate such alteration to the Income tax Officer mentioned in sub rule (1), and in default of such communication any approval given shall, unless the Commissioner otherwise orders, be deemed to have been withdrawn from the date on which the alteration took effect

**5 Contributions by employer, when deemed to be income of employer**—Where any contributions by an employer (including the interest thereon, if any) are repaid to the employer, the amount so repaid shall be deemed for the purpose of income tax and super-tax to be the income of the employer of the previous year in which it is so repaid

**6 Deduction of tax on contributions paid to an employee**—Where any contributions made by an employer, including interest on contributions, if any, are paid to an employee during his life time, income-tax and super-tax on the amounts so paid shall be deducted at the average rate of income-tax and super-tax at which the employee was liable to income tax and super-tax during the preceding three years or during the period, if less than three years, when he was a member of the fund, and shall be paid by the trustees to the (R 33)

credit of the Central Government within the prescribed time and in such manner as the Board may direct

**7 Deduction from pay of and contributions on behalf of employee to be included in return**—Where an employer deducts from the emoluments paid to an employee or pays on his behalf any contributions of that employee to an approved superannuation fund, he shall include all such deductions or payments in the return which he is required to furnish under sub section (1) of section 206

**8 Appeals**—(1) An employer objecting to an order of the Commissioner refusing to accord approval to a superannuation fund or an order withdrawing such approval may appeal, within sixty days of such order, to the Board

(2) The appeal shall be in such form and shall be verified in such manner and shall be subject to the payment of such fee as may be prescribed

**9 Liability of trustees on cessation of approval**—If a fund or a part of a fund for any reason ceases to be an approved superannuation fund, the trustees of the fund shall nevertheless remain liable to tax on any sum paid on account of returned contributions (including interest on contributions, if any), in so far as the sum so paid is in respect of contributions made before the fund or part of the fund ceased to be an approved superannuation fund under the provisions of this Part

**10 Particulars to be furnished in respect of superannuation funds**—The trustees of an approved superannuation fund and any employer who contributes to an approved superannuation fund shall, when required by notice from the Income-tax Officer, within such period, not being less than twenty-one days from the date of the notice, as may be specified in the notice, furnish such return, statement, particulars or information, as the Income-tax Officer may require

**11 Provision relating to rules**—(1) In addition to any power conferred by this Part, the Board may make rules—

- (a) prescribing the statements and other information to be submitted along with an application for approval,
- (b) prescribing the returns, statements, particulars, or information which the Income-tax Officer may require from the trustees of an approved superannuation fund or from the employer,
- (c) limiting the ordinary annual contribution and any other contributions to an approved superannuation fund by an employer,
- (d) providing for the assessment by way of penalty of any consideration received by an employee for an assignment of, or creation of a charge upon, his beneficial interest in an approved superannuation fund,
- (e) determining the extent to, and the manner in, which exemption from payment of income-tax and super-tax may be granted in respect of any payment made from a superannuation fund from which approval has been withdrawn,
- (f) providing for the withdrawal of approval in the case of a fund which ceases to satisfy the requirements of this Part or of the rules made thereunder, and
- (g) generally, to carry out the purposes of this Part and to secure such further control over the approval of superannuation funds and the administration of approved superannuation funds as it may deem requisite

(2) All rules made under this Part shall be subject to the provisions of **Div. 2**  
 section 296 **Sch. IV**  
**Part B-**  
**Part C**

## PART C

### *Approved gratuity funds*

(Rr 98-  
111)

[See sections 2(5), 17(1)(m), 36(1)(v)]

**1 Definitions**—In this Part, unless the context otherwise requires, “employer”, “employee”, “contribution” and “salary” have, in relation to gratuity funds, the meanings assigned to those expressions in rule 2 of Part A in relation to provident funds

**2 Approval and withdrawal of approval**—(1) The Commissioner may accord approval to any gratuity fund which, in his opinion, complies with the requirements of rule 3 and may at any time withdraw such approval if, in his opinion, the circumstances of the fund cease to warrant the continuance of the approval

(2) The Commissioner shall communicate in writing to the trustees of the fund the grant of approval with the date on which the approval is to take effect, and where the approval is granted subject to conditions, those conditions

(3) The Commissioner shall communicate in writing to the trustees of the fund any withdrawal of approval with the reasons for such withdrawal and the date on which the withdrawal is to take effect

(4) The Commissioner shall neither refuse nor withdraw approval to any gratuity fund unless he has given the trustees of that fund a reasonable opportunity of being heard in the matter

**3 Conditions for approval**—In order that a gratuity fund may receive and retain approval, it shall satisfy the conditions set out below and any other conditions which the Board may, by rules, prescribe—

(a) the fund shall be a fund established under an irrevocable trust in connection with a trade or undertaking carried on in India, and not less than ninety per cent of the employees shall be employed in India,

(b) the fund shall have for its sole purpose the provision of a gratuity to employees in the trade or undertaking on their retirement at or after a specified age or on their becoming incapacitated prior to such retirement or on termination of their employment after a minimum period of service specified in the rules of the fund or to the widows, children or dependants of such employees on their death,

(c) the employer in the trade or undertaking shall be a contributor to the fund, and

(d) all benefits granted by the fund shall be payable only in India

**4 Application for approval**—(1) An application for approval of a gratuity fund shall be made in writing by the trustees of the fund to the Income-tax Officer by whom the employer is assessable and shall be accompanied by a copy of the instrument under which the fund is established and by two copies of the rules and of the accounts of the fund for the last three years for which such accounts have been made up, but the Commissioner may require such further information to be supplied as he thinks proper



(2) If any alteration in the rules, constitution, objects or conditions of the fund is made at any time after the date of the application for approval, the trustees of the fund shall forthwith communicate such alterations to the Income tax Officer mentioned in sub rule (1), and in default of such communication, any approval given shall, unless the Commissioner otherwise orders, be deemed to have been withdrawn from the date on which the alteration took effect

**5 Gratuity deemed to be salary**—Where any gratuity is paid to an employee during his life-time, the gratuity shall be treated as salary paid to the employee for the purposes of this Act

**6 Liability of trustees on cessation of approval**—If a gratuity fund for any reason ceases to be an approved gratuity fund, the trustees of the fund shall nevertheless remain liable to tax on any gratuity paid to any employee

**7 Contributions by employer, when deemed to be income of employer**—Where any contributions by an employer (including the interest thereon, if any) are repaid to the employer, the amount so repaid shall be deemed for the purposes of income tax and super-tax to be the income of the employer of the previous year in which they are so repaid

**8 Appeals**—(1) An employer objecting to an order of the Commissioner refusing to accord approval to a gratuity fund or an order withdrawing such approval may appeal, within sixty days of such order, to the Board

(2) The appeal shall be in such form and shall be verified in such manner and shall be subject to the payment of such fee as may be prescribed

**9 Provisions relating to rules**—(1) In addition to any power conferred in this Part, the Board may make rules—

- (a) prescribing the statements and other information to be submitted along with an application for approval,
- (b) limiting the ordinary annual and other contributions of an employer to the fund,
- (c) providing for the assessment by way of penalty of any consideration received by an employee for an assignment of, or the creation of a charge upon, his beneficial interest in an approved gratuity fund,
- (d) providing for the withdrawal of the approval in the case of a fund which ceases to satisfy the requirements of this Part or the rules made thereunder, and
- (e) generally, to carry out the purposes of this Part and to secure such further control over the approval of gratuity funds and the administration of gratuity funds as it may deem requisite

(2) All rules made under this Part shall be subject to the provisions of section 296

## THE FIFTH SCHEDULE

### EXEMPTION FROM SUPER-TAX IN RESPECT OF CERTAIN DIVIDENDS

[See section 99(1)(iv)]

1 Super-tax shall not be payable by a company in respect of any dividend which is assessable for the assessment year commencing on the

1st day of April, 1962, and for the subsequent assessment years, and which is declared—

Div 2  
Sch V

(a) by an Indian company formed and registered after the 31st day of March, 1952, and before the 1st day of April, 1967, where—

(1) the Central Government is satisfied that the Indian company is wholly or mainly engaged in an industry for the manufacture or production of any one or more of the articles specified in any of the items in Part A of this Schedule, and

(2) the income of the Indian company would have been exempt under the provisions of section 84, if the provisions of that section had been applicable thereto, or

(b) by an Indian company formed and registered after the 31st day of March, 1961, and before the 1st day of April, 1967, where—

(1) the Central Government is satisfied that the Indian company is wholly or mainly engaged in an industry for the manufacture or production of any one or more of the articles specified in any of the items in Part B of this Schedule, and

(2) the income of the Indian company would have been exempt under the provisions of section 84, if the provisions of that section had been applicable thereto

2 Super tax shall not be payable by a company in respect of any dividend which is assessable for the assessment year commencing on the 1st day of April 1962, and for the subsequent assessment years and which is payable to it in respect of any fresh capital raised by an Indian company by public subscription—

(a) after the 28th day of February, 1953, and before the 1st day of April, 1967, for the purpose of increasing the production of, or starting a separate unit for the manufacture or production of, any one or more of the articles specified in any of the items in Part A of this Schedule, and

(b) after the 31st day of March 1961, and before the 1st day of April, 1967, for the purpose of increasing the production of, or starting a separate unit for the manufacture or production of, any one or more of the articles specified in any of the items in Part B of this Schedule

3 Where by any Act any of the items in Part A or Part B of this Schedule is repealed, then, notwithstanding such repeal, any exemption conferred by rule 1 or rule 2 shall continue to be available for the dividends declared by any Indian company engaged in any industry referred to in the item so repealed—

(i) in the cases referred to in rule 1, so long as such dividends relate to the previous year in which the Indian company is incorporated and the nine previous years immediately succeeding,

(ii) in the cases referred to in rule 2, so long as such dividends relate to the previous year in which the fresh capital was raised and the nine previous years immediately succeeding, and

(iii) in the case of an Indian company which is wholly or mainly engaged in, or, as the case may be, which runs a separate unit for the manufacture or production of articles specified in any item so repealed and also in any item which continues to be in force, the exemption from super tax referred to in rule 1 or

rule 2 in respect of such part of the dividends declared by the Indian company in respect of any previous year later than the nine previous years referred to in clause (i) or clause (ii) as is attributable to the profits and gains derived from the manufacture or production of any article specified in the item so repealed shall lapse

### PART A

- 1 Coal including coke and other derivatives ,
- 2 Iron and steel (metal), ferro alloys and special steels ,
- 3 Motor and aviation fuel, kerosene, crude oils and synthetic oils (not being oil exploration) ,
- 4 Chemicals (other than fertilisers) of the following types
  - (a) Inorganic heavy chemicals ,
  - (b) Organic heavy chemicals ,
  - (c) Fine chemicals (including photographic chemicals),
  - (d) Synthetic rubber ,
  - (e) Man-made fibres, other than viscose rayon ,
  - (f) Coke oven by-products ,
  - (g) Coal tar distillation products like naphthalene, anthracene and the like ,
  - (h) Explosives, including gun-powder and safety fuses ,
- 5 Inorganic, organic and mixed fertilisers ,
- 6 Industrial machinery of the following types (including gear wheels and parts thereof, boilers and steam generating plants) —

#### *A Major items of specialised equipment used in specific industries*

- (i) Textile machinery (such as frames, carding machines, powerlooms and the like) including textile accessories ,
- (ii) Jute machinery ,
- (iii) Rayon machinery ,
- (iv) Sugar machinery ,
- (v) Tea machinery ,
- (vi) Mining machinery ,
- (vii) Metallurgical machinery ,
- (viii) Cement machinery ,
- (ix) Chemical machinery ,
- (x) Pharmaceuticals machinery ,
- (xi) Paper machinery ,

#### *B General items of machinery used in several industries, such as the equipment required for various "unit processes" " "*

- (i) Size reduction equipment—crushers, ball mills and the like ,
- (ii) Conveying equipment—bucket elevators, skip hoists, cranes, derricks and the like ,
- (iii) Size separation units—screens, classifiers and the like
- (iv) Mixers and reactors—kneading mills, turbo mixers and the like ,

- (v) Filtration equipment—filter presses, rotary filters and the like , Div 2  
Sch V
- (vi) Centrifugal machines ,
- (vii) Evaporators ,
- (viii) Distillation equipment ,
- (ix) Crystallisers ,
- (x) Driers ,
- (xi) Power driven pumps—reciprocating, centrifugal and the like ,
- (xii) Air and gas compressors and vacuum pipes (excluding electrical furnaces) ,
- (xiii) Refrigeration plants for industrial use ,
- (xiv) Fire fighting equipment and appliances including fire engines ,

*C Other items of industrial machinery*

- (i) Ball, roller and tapered bearings ,
  - (ii) Speed reduction units ,
  - (iii) Grinding wheels and abrasives
- 7 Machinery and equipment for the generation, transmission and distribution of electric energy ,
  - 8 Non-ferrous metals including alloys ,
  - 9 Paper including newsprint and paper board ;
  - 10 Internal combustion engines ,
  - 11 Power-driven pumps ,
  - 12 Automobiles ,
  - 13 Tractors ,
  - 14 Cement ,
  - 15 Electric motors ,
  - 16 Locomotives ,
  - 17 Rolling stock ,
  - 18 Machine tools ,
  - 19 Agriculture implements ,
  - 20 Ferro manganese ,
  - 21 Dye stuffs ,
  - 22 Refractories, and
  - 23 Steel pipes and spun iron pipes

PART B

1. Steel castings ,
- 2 Steel forgings provided the undertaking is equipped with forges of two-ton hammer and above ,
- 3 Pulp machinery ,
- 4 Pulp for paper and artificial fibres ,

- 5 Dies and jigs ,
  - 6 Precision tools ,
  - 7 *Industrial instruments*
    - (\*) Water meters, steam meters and electricity meters ,
    - (11) Indicating, recording and regulating devices for pressure, temperature, rate of flow, weights and levels ,
  - 8 Scientific instruments ,
  - 9 Sealed compressor units for the refrigeration industry ,
  - 10 Earth-moving equipment ,
  - 11 Boilers ,
  - 12 Electrical railway signalling equipment ,
  - 13 Printing machinery ,
  - 14 Organic intermediates for dye-stuffs, drugs and plastics, and
  - 15 Component parts of each of the articles mentioned in items numbers 6, 7, 10, 12 and 13 of Part A and items numbers 10 and 11 of Part B, that is to say, such parts as are essential for the working of the machinery referred to in the items aforesaid and have been given for that purpose some special shape or quality which would not be essential for their use for any other purpose and are in complete finished form and ready for fitment
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DIVISION 3

THE INCOME-TAX RULES, 1962

# THE INCOME-TAX RULES, 1962

(Notification No S O 969, dated the 26th March, 1962)

In exercise of the powers conferred by section 295 of the Income-tax Act, 1961 (XLIII of 1961) and rule 15 of Part A, rule 11 of Part B and rule 9 of Part C of the Fourth Schedule to that Act, the Central Board of Revenue hereby makes the following rules, namely —

## PART I

### PRELIMINARY

1 Short title and commencement —(1) These rules may be called the Income tax Rules, 1962

(2) They shall come into force on the 1st day of April, 1962

2 Definitions —(1) In these rules, unless the context otherwise requires,—

(a) " Act " means the Income tax Act, 1961 (XLIII of 1961),

(b) " Chapter ", " section " and " Schedule " mean respectively Chapter and section of, and Schedule to, the Act

(2) All references to " Forms " in these rules shall be construed as references to the forms set out in Appendix II hereto

## PART II

### DETERMINATION OF INCOME

#### A —Salaries

3 Valuation of perquisites —For the purpose of computing the income chargeable under the head " Salaries " the value of the perquisites (not provided for by way of monetary payment to the assessee) mentioned below shall be determined in accordance with the following clauses, namely —

(a) The value of rent-free residential accommodation shall ordinarily be estimated at a sum equal to,—

where the accommodation is not furnished—10 per cent

where the accommodation is furnished—12 5 per cent

of the salary due to the assessee in respect of the period of his occupation of the said accommodation during the relevant previous year, but

(i) where the fair rental value of the accommodation is in excess of 25 per cent (if furnished) or 20 per cent (if unfurnished) of the employee's salary, the value of the perquisite shall be taken to be 12½ per cent or 10 per cent respectively of the salary increased by a sum equal to the amount by which the fair rental value exceeds 25 per cent (when accommodation is furnished) or 20 per cent (when accommodation is unfurnished), of the salary provided that the Income-tax Officer may, having in view the nature of the accommodation, determine the sum by which the 12½ per cent or 10 per cent of the salary, as the case may be, is to

be increased, as a percentage (not exceeding 100 per cent) of the amount by which the fair rental value exceeds 25 per cent or 20 per cent of the salary as the case may be,

- (ii) where the assessee claims, and the Income tax Officer is satisfied, that the sum arrived at on the basis first mentioned exceeds the fair rental value of the accommodation, the value of the perquisite to the assessee shall be limited to such fair rental value
- (b) The value of residential accommodation provided at a concessional rent shall be determined as the sum by which the value computed in accordance with clause (a) as if the accommodation were provided free of rent, exceeds the rent actually payable by the assessee for the period of his occupation during the relevant previous year

*Explanation*—For the purposes of clauses (a) and (b)—

- (1) the fair rental value shall be,—

- (i) where the accommodation—

- (a) is provided by Government to a person holding an office or post in connection with the affairs of the Union or of a State, or

- (b) is provided by a body or undertaking under the control of Government to any officer of Government whose services have been lent to that body or undertaking, the accommodation itself having been allotted to it by Government,

the rent which has been or would have been determined as payable by such person or officer in accordance with the rules framed by Government for allotment of residences to its officers,

- (ii) in any other cases,—

where the accommodation is not furnished, the rent which a similar accommodation would realize in the same locality or the municipal valuation in respect of the accommodation, whichever is higher, and

where the accommodation is furnished, the fair rental value of the accommodation as if it were not furnished, plus the fair rent for the furniture (including airconditioning equipments and refrigerators), calculated at 10 per cent per annum on the original cost of the furniture, or if the furniture is hired from a third party, the actual hire charges payable therefor,

- (2) "salary" includes the pay, allowances, bonus or commission payable monthly or otherwise, but does not include the following, namely,—

- (i) dearness allowance or dearness pay unless it enters into the computation of superannuation or retirement benefits of the employee concerned,

- (ii) employer's contributions to the provident fund account of the assessee,

- (iii) allowances which are exempted from payment of tax

- (c) (i) The value of a motor-car provided by the employer for use by the assessee exclusively for his private or personal purposes



shall be determined as the sum actually expended by the employer in the maintenance and running of the motor-car during the relevant previous year (including the normal wear and tear where the motor-car is owned by the employer) Div 3  
R 3

- (ii) The value of the motor car provided for the use of the assessee partly for his personal purposes and partly for business purposes shall be determined to be that part of the sum out of the amount actually expended by the employer in the maintenance and running of the motor-car during the relevant previous year (including the normal wear and tear where the motor-car is owned by the employer) which can reasonably be attributed to the user by the assessee for his private or personal purposes, but where a determination on the basis mentioned above presents difficulty, the value of the perquisite may be determined on the basis provided hereunder

| Value of perquisite per calendar month                                                                                                                                                  |                                                                                                                    |                                                                                                    |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------|
|                                                                                                                                                                                         | Where the h p rating of the car does not exceed 16 or the cubic capacity of the engine does not exceed 1 88 litres | Where the h p rating of the car exceeds 16 or the cubic capacity of the engine exceeds 1 88 litres |
|                                                                                                                                                                                         | Rs                                                                                                                 | Rs                                                                                                 |
| 1 Where the motor car is owned or hired by the employer and all the expenses of maintenance and running are met or reimbursed to the assessee by the employer                           | 60                                                                                                                 | 125                                                                                                |
| 2 Where the motor car is owned or hired by the employer but the expenses of maintenance and running for his private or personal purposes are met by the assessee from out of his pocket | 25                                                                                                                 | 50                                                                                                 |

- (iii) Where the assessee owns the motor-car but the actual running or maintenance charges are met, or reimbursed to him, by the employer, the value of the perquisite to the assessee shall be determined as the sum actually expended by the employer which in the opinion of the Income-tax Officer can reasonably be attributed to the user of the car by the assessee for his private or personal purposes
- (iv) The value of the free use by the assessee of any other type of conveyance provided by the employer shall be determined as the sum actually expended by the employer in the maintenance and running of the conveyance during the relevant previous year (including normal wear and tear, where the conveyance is owned by the employer) which in the opinion of the Income-tax Officer can reasonably be attributed to the user by the assessee for his private or personal purposes
- (d) The value of the benefit to the assessee resulting from the supply of gas, electric energy or water for his household consumption

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free of any charge shall be determined as the sum equal to the amount paid on that account by the employer to the agency supplying the gas, electric energy or water, but—

- (i) where such supply is made from resources owned by the employer without purchasing them from any other outside agency, the value therefor shall be taken as nil and
- (ii) where the Income tax Officer is satisfied that the gas, electric energy or water supply to any assessee are consumed also for the purposes of his official duties, the Income-tax Officer shall determine the value of the benefit to the assessee to be equal to the amount paid on that account by the employer to the agency supplying the gas, electric energy or water or  $6\frac{1}{2}$  per cent of the salary of assessee, whichever is lower
- (e) The value of the benefit to the assessee resulting from the provision of free education facilities for any member of his household shall be determined as the sum equal to the amount of the expenditure incurred by the employer in that behalf, but where the educational institution itself is maintained and run by the employer for the benefit of all his employees as a group, the value of the perquisite to the assessee shall be determined with reference to the reasonable cost of such education in a similar institution in or near the locality
- (f) The value of any benefit or amenity resulting from the provision by any undertaking engaged in the carriage of passengers or goods to any employee of the undertaking or to members of his family or his dependent relatives, of journey free of cost or at concessional fares, in any conveyance owned by the undertaking for the purpose of transport of passengers or goods shall be taken as nil
- (g) The value of any benefit or amenity not included in the preceding clauses of this rule shall be determined on such basis and in such amount as the Income-tax Officer considers fair and reasonable

#### *B —Income from house property*

**4 Unrealised rent**—Under clause (x) of sub section (1) of section 24, deduction shall be allowed of such part of income in respect of which tax is payable under the head "Income from house property" as is equal to the amount of rent payable but not paid by a tenant of the assessee and so proved to be lost and irrecoverable where—

- (a) the tenancy is bona fide,
- (b) the defaulting tenant has vacated, or steps have been taken to compel him to vacate the property,
- (c) the defaulting tenant is not in occupation of any other property of the assessee,
- (d) the assessee has taken all reasonable steps to institute legal proceedings for the recovery of the unpaid rent or satisfies the Income-tax Officer that legal proceedings would be useless, and
- (e) the annual value of the property to which the unpaid rent relates has been included in the assessed income of the previous year during which that rent was due and tax has been duly paid on such assessed income

Provided that the deduction to be allowed on this account shall not exceed the income under the head "Income from house property" included

in the total income as computed without making any deduction under this rule

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*C — Profits and gains of business or profession*

**5 Depreciation** —(1) Subject to the provisions of sub rules (2) and (3), the allowance under clause (i) or clause (ii) of sub section (1) of section 32 in respect of depreciation of buildings, machinery, plant or furniture shall be at a percentage of the actual cost or the written down value, as the case may be, equal to (i) 100 per cent, (ii) fifty per cent or (iii) nil per cent of the number shown in the corresponding entry in the second column of the statement in Part I of Appendix I to these rules according as the buildings, machinery, plant or furniture have been used by the assessee in his business or profession during the previous year (i) for a period of 180 days or more, (ii) for a period of less than 180 days but more than thirty days or (iii) for a period of thirty days or less than thirty days, respectively

Provided that in the case of a seasonal factory worked by the assessee during all the working seasons of the previous year, depreciation shall be allowed as if the buildings, machinery, plant or furniture had been in use throughout the period the assessee was the owner thereof during the previous year

(2) In the case of a steamer or a motor vessel purchased second hand, the allowance under clause (i) of sub-section (1) of section 32 shall be at the percentage of the actual cost as computed in accordance with sub rule (1) multiplied by the fraction  $20/L$ , where 'L' is the expectation of life at the date of purchase as indicated in the table given in Part II of Appendix I to these rules

(3) In the case of any expenditure on additions to ocean going steamers or motor vessels which has been treated as being capital expenditure for income-tax purposes (e.g., the installation of refrigerating plant), the allowance under clause (i) of sub section (1) of section 32 in respect of such expenditure shall be at the percentage as computed in accordance with sub rule (1) multiplied by—

- (a) if the expenditure is made before the expiry of the twenty years' life of the steamer or motor vessel,—the fraction  $20/E$  where E is the number of years required to complete the twenty years aforesaid
- (b) if the expenditure is made on or after the expiry of twenty years' life of the steamer or motor vessel,—the fraction  $20/L$  where L is the expectation of life at the date of the incurring of the capital expenditure as indicated in the table given in Part II of Appendix I to these rules, the words "age at the date of purchase" in the table being substituted by the words "age at the date of the incurring of the capital expenditure",
- (c) if the expenditure is made on additions to a steamer or motor vessel purchased second hand,—the fraction  $20/R$  where R is the number of years required to complete the expectation of life at the date of purchase as indicated in the table given in Part II of Appendix I to these rules

(4) Notwithstanding anything contained in sub-rules (1) to (3), for the assessment year 1961-62 or any earlier assessment year, depreciation in respect of buildings, machinery, plant or furniture shall be allowed at percentages and in the manner specified in rule 8 of the Indian Income tax Rules, 1922

- (iii) such amount as the Income-tax Officer finds, having regard to all the circumstances in each case, to represent a reasonable profit

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**8 Income from the manufacture of tea**—(1) Income derived from the sale of tea grown and manufactured by the seller in India shall be computed as if it were income derived from business, and forty per cent of such income shall be deemed to be income liable to tax

(2) In computing such income an allowance shall be made in respect of the cost of planting bushes in replacement of bushes that have died or become permanently useless in an area already planted, if such area has not previously been abandoned

**9. Royalties or copyright fees, etc., for literary or artistic work**—(1) Where a claim for an allocation is or has been made under section 12AA of the Indian Income-tax Act, 1922 (XI of 1922), in respect of the amount referred to in that section, it shall be dealt with in the following manner, namely—

- (i) where the time taken by the author of the literary or artistic work in the making thereof is more than twelve but less than twenty-four months, one half of the amount referred to in the said section shall be included in the total income of the previous year in which the whole amount is received or receivable, and the other half in the total income of the next succeeding previous year, and
- (ii) where the time so taken is twenty-four months or more, one-third of the amount referred to in the said section shall be included in the total income of the previous year in which the whole amount is received or receivable and one-third of the said amount in the total income of each of the two next succeeding previous years

(2) Where a claim for an allocation is made by an assessee under section 180 for the assessment year 1962-63 or any subsequent assessment year, it shall be dealt with in the following manner, namely—

- (i) the tax for the assessment year relevant to the previous year in which the whole amount is received or receivable shall be—
  - (a) the amount of tax payable on the total income as reduced by two thirds of the amount referred to in section 180 included in the total income of the previous year aforesaid had the total income so reduced been his total income, *plus*
  - (b) the tax on an amount equal to two-thirds of the amount referred to in section 180 included in the total income of the previous year aforesaid at the rate applicable to a total income of an amount equal to one third of such inclusion, and
- (ii) one third of the amount referred to in section 180 included in the total income of the previous year aforesaid shall be included in the total income of each of the two next succeeding previous years and the tax payable, if any, in respect of each of the assessments relevant to the two said succeeding previous years shall be reduced by an amount equal to one half of the tax referred to in sub-clause (b) of clause (i)

**10 Determination of income in the case of non-residents**—In any case in which the Income-tax Officer is of opinion that the actual amount of the income accruing or arising to any non-resident person whether directly or

v 3 indirectly, through or from any business connection in India or through or  
-12A from any property in India or through or from any asset or source of income  
in India or through or from any money lent at interest and brought into  
India in cash or in kind cannot be definitely ascertained, the amount of such  
income for the purposes of assessment to income tax and super tax may  
be calculated —

- (2) at such percentage of the turnover so accruing or arising as the Income tax Officer may consider to be reasonable, or
- (ii) on any amount which bears the same proportion to the total profits and gains of the business of such person (such profits and gains being computed in accordance with the provisions of the Act), as the receipts so accruing or arising bear to the total receipts of the business, or
- (iii) in such other manner as the Income tax Officer may deem suitable

**11 Determination of income from transactions with non-residents —**  
The profits and gains derived from any business carried on in the manner referred to in section 92 may be determined for the purposes of assessment to income tax and super-tax according to rule 10

### PART III

#### ASSESSMENT PROCEDURE

**12 Return of income —**(1) The return of income required to be furnished under sub section (1) or sub section (2) or sub section (3) of section 139 shall, in the case of a company, be in Form No 1 and shall be verified in the manner indicated therein

(2) The return of income required to be furnished under sub section (1) or sub section (2) or sub section (3) of section 139 shall, in the case of a person not being a company, be in Form No 2 and shall be verified in the manner indicated therein

(3) Notwithstanding anything contained in sub rule (2), the return of income required to be furnished under sub section (1) or sub section (2) or sub section (3) of section 139 may be furnished in the case of a person, not being a company, whose income does not include any profits and gains of business or profession (not being a share as a partner in a firm or as a member of an association of persons or a body of individuals)—

- (i) where the income consists of income chargeable under the head “Salaries” or “Interest on securities” or “Income from other sources” only, in Form No 3,

(ii) in other cases, in Form No 4,  
and shall in each case be verified in the manner indicated in the respective form

(4) Notwithstanding anything contained in sub-rule (1) or sub rule (2) or sub rule (3), where a return of income relates to the assessment year 1961 62 or any earlier assessment year, it shall be furnished in the appropriate form prescribed in rule 19 of the Indian Income tax Rules, 1922, and shall be verified in the manner indicated therein

**12A Preparation of return by authorised representative —**Every authorised representative of an assessee, being an authorised representative

specified in clause (iii) or clause (iv) or clause (v) or clause (vi) or clause (vii) of sub-section (2) of section 288, who has prepared the return of income furnished by the assessee shall, either before making an appearance before the Income-tax Officer having jurisdiction to assess that assessee, or immediately after making such appearance, furnish to that officer— **Div 3**  
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**12A-18**

- (a) particulars of accounts, statements or other documents supplied to him by the assessee for the preparation of the return of income, and
- (b) where the authorised representative has for the purpose of preparation of the return of income carried out any examination of such accounts, statements or documents, a report on the scope and results of such examination

**13 Application for extension of time for filing return of income**—The application to the Income tax Officer under the proviso to sub-section (1), or the proviso to sub section (2), of section 139 for seeking an extension of the date for furnishing the return of income shall be in Form No 6

**14 Form of verification under section 142**—The information which a person is required by the Income tax Officer to furnish under clause (v) of sub section (1) of section 142 shall be verified in the following manner, namely —

“ I declare that to the best of my knowledge and belief, the information furnished in the statement/statements is correct and complete and other particulars shown therein are truly stated ”

**15. Notice of demand for regular assessment, etc**—(1) Subject to the provisions of rules 16 and 38, the notice of demand under section 156 shall be in Form No 7

(2) In cases where the notice of demand relates to tax in respect of any assessment year commencing on or after the 1st April, 1962, it shall be accompanied by the assessment form in Form No 8 and where the notice of demand relates to tax in respect of the assessment year commencing on the 1st April, 1961, or any earlier assessment year, the notice of demand shall be accompanied by the assessment form as prescribed in rule 20 of the Indian Income-tax Rules, 1922

**16 Notice of demand for provisional assessment**—Notwithstanding anything contained in rule 15, the notice of demand relating to any tax due in consequence of a provisional assessment made under section 141 shall be in Form No 9

## PART IV

### TAX EXEMPTIONS

**17 Notice for accumulation of income by charitable trusts**—The notice to be given to the Income tax Officer under sub section (2) of section 11 shall be in Form No 10

**18 Accommodation and amenities to be provided by hotels**—For the purpose of clause (d) of sub section (3) of section 84, a hotel should have—

- (a) not less than fifty guest rooms (at least fifty per cent of which are single rooms) with attached bath rooms, equipped with modern sanitary fittings, if it is situated in a town with a population of five lakhs or more, or

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19

- (b) not less than twenty-five guest rooms (at least twenty-five per cent of which are single rooms) with attached bath rooms, equipped with modern sanitary fittings, if it is situated in a town with a population of less than five lakhs

19 Computation of capital employed in an industrial undertaking or a hotel—(1) For the purposes of section 84, the capital employed in an undertaking or a hotel to which the said section applies shall be taken to be—

- (a) in the case of assets acquired by purchase and entitled to depreciation—
- (i) if they have been acquired before the computation period, their written down value on the commencing date of the said period,
  - (ii) if they have been acquired on or after the commencing date of the computation period, their average cost during the said period,
- (b) in the case of assets acquired by purchase and not entitled to depreciation—
- (i) if they have been acquired before the computation period, their actual cost to the assessee,
  - (ii) if they have been acquired on or after the commencing date of the computation period, their average cost during the said period,
- (c) in the case of assets being debts due to the person carrying on the business, the nominal amounts of those debts,
- (d) in the case of any other assets, the value of the assets when they became assets of the business

Provided that if any such asset has been acquired within the computation period, only the average of such value shall be taken in the same manner as average cost is to be computed

*Explanation*—For the purposes of clauses (a) and (b) of this sub-rule, the value of any building, machinery or plant or any part thereof which having been previously used for any purpose is transferred to the undertaking or hotel at the time of its formation, shall not be taken into account for computing the capital employed in cases to which the Explanation to section 84 applies

(2) Where the price of any asset has been satisfied otherwise than in cash, the then value of the consideration actually given for the asset shall be treated as the price at which the asset was acquired

(3) Any borrowed money and debt due by the person carrying on the business shall be deducted and in particular there shall be deducted any debts incurred in respect of the business for income-tax and super-tax or for advance payments due under any provision of the Act

Provided that any such debt for income-tax or super-tax shall, for the purpose of this sub-rule, be deemed to have become due—

- (a) in the case of income-tax and super-tax on the last day of the period of time within which the tax is payable under section 220,
- (b) in the case of any advance payment due under any provision of the Act or of any provisional tax paid under section 141 on the date on which, under the provisions of section 211 or section 212 or section 213 or section 220, as the case may be, the payment first became due

(4) Any investments the income from which is not to be taken into account in computing the profits of the business and any moneys not required for the purposes of the business, shall be left out of account, but where any investments in the beneficial ownership of the person carrying on the business are so left out of account, the sum (if any) to be deducted under sub rule (1) in respect of borrowed money shall be computed as if the principal of the borrowed money were reduced by the value of those investments

(5) For the purpose of ascertaining the average amount of capital employed in a business during any computation period, the profits or losses made in that period shall, except so far as the contrary is shown, be deemed—

- (a) to have accrued at an even rate throughout the said period, and
- (b) to have resulted, as they accrued, in a corresponding increase or decrease, as the case may be, in the capital employed in the business

(6) In this rule,—

- (i) "average cost" in relation to any asset means such proportion of the actual cost thereof as the number of days of the computation period during which such asset is used in the business bears to the total number of the days comprised in the said period,
- (ii) "computation period" means the period for which the profits and gains of the undertaking or hotel are computed under sections 28 to 43,
- (iii) "depreciation" means the allowance admissible under clause (i) or clause (ii) or clause (iv) of sub section (1) of section 32,
- (iv) "written-down-value" means the written-down-value computed under sub-section (6) of section 43 as if for the words "previous year" the words "computation period" were substituted

**20 Computation of portion of dividend paid by new industrial undertakings or hotels on which tax is not payable**—(1) The amount of that part of dividend paid or deemed to be paid to a shareholder by a company in respect of any previous year (hereinafter in this rule referred to as the "previous year aforesaid"), whether in respect of ordinary share capital or of preference share capital, on which tax is not payable by the shareholder under section 85 or sub-section (2) of section 101 shall be determined in accordance with sub-rules (2) to (6)

(2) The aggregate of the profits and gains of the company on which tax is or was not payable under section 84 or sub section (1) of section 101 of the Act or sub-section (1) of section 15C of the Indian Income-tax Act, 1922 (XI of 1922), in respect of the previous year aforesaid and of the previous years preceding the previous year aforesaid shall first be ascertained

(3) From the amount ascertained as in sub-rule (2) shall be deducted the aggregate of the amounts of dividends, paid or deemed to be paid by the company in respect of the said preceding previous years, on which tax was not paid under section 85 or sub-section (2) of section 101 of the Act or sub section (4) of section 15C of the Indian Income-tax Act, 1922 (XI of 1922)

(4) The dividend paid or deemed to be paid by the company in respect of the previous year aforesaid shall be regarded as having been paid out of its funds in the following order, namely—

- (i) first, out of, and to the extent of, the resultant sum determined as in sub-rule (3), and



(ii) then, out of the remaining funds

(5) The part of the dividend which is regarded as having been paid out of the sum mentioned in clause (i) of sub rule (4) shall be the amount on which tax is not payable under section 85 or sub section (2) of section 101 and in the certificate to be given under sub-rule (4) of rule 31, this part shall specifically be indicated

(6) The entire amount of dividends paid as a result of declaration in a meeting held to consider the accounts of the company in respect of any previous year will constitute dividends paid in respect of that previous year

**21 Limits for life insurance premia in the case of authors, etc —**(1) In the case of an individual being an author, playwright, artist, musician or actor, the total amount in respect of which a deduction of income-tax is allowed under sub section (1) of section 87 shall not exceed—

(i) an amount equal to the aggregate of 33½ per cent of the income from such profession included in his total income and of twenty-five per cent of the remaining part of the total income, or

(ii) an amount of Rs 10,000 as increased by 8½ per cent of the income from such profession included in his total income, subject to a maximum of Rs 15,000,

whichever is less

(2) Sub rule (1) shall not apply for any assessment year preceding the assessment year 1962-63

## PART V

### REGISTRATION OF FIRMS

**22 Application for registration of a firm —**(1) An application for registration of a firm for the purposes of the Act shall be made in accordance with the provisions of sub rules (2) to (5)

(2) Where the application is made before the end of the relevant previous year—

(i) and where no change in the constitution of the firm or the shares of the partners has taken place during the previous year before the date of the application—

(a) the application shall be made in Form No 11, and

(b) it shall be accompanied by the original instrument evidencing the partnership at the date of the application together with a copy thereof. A certified copy of the instrument together with a duplicate copy thereof may be attached to the application if, for sufficient reason, the original instrument cannot be produced,

(ii) and where any change or changes in the constitution of the firm or the shares of the partners have taken place during the previous year before the date of the application—

(a) the application shall be made in Form No 11A, and

(b) it shall be accompanied by the original instrument or instruments evidencing the partnership as in existence from time to time during the previous year up to the date of the application together with copies thereof. A certified copy of the instrument or instruments together with a duplicate

copy thereof may be attached to the application if, for sufficient reason, the original instrument or instruments cannot be produced

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(3) Where after the date of making an application under sub rule (2), any change or changes in the constitution of the firm or the shares of the partners have taken place during the previous year, a fresh application shall be made after each such change takes place in accordance with the provisions of sub clauses (a) and (b) of clause (ii) of sub-rule (2) and the time limit prescribed in sub section (4) of section 184 shall apply to each such application

(4) Where the application is made after the end of the relevant previous year—

(i) and where no change in the constitution of the firm or the shares of the partners has taken place during the said previous year and up to the date of the application, the application shall be made in accordance with the provisions of sub clauses (a) and (b) of clause (i) of sub-rule (2),

(ii) and where any change or changes in the constitution of the firm or the shares of the partners have taken place during the said previous year and/or after the end of the previous year but before the date of the application—

(a) the application shall be made in Form No 11A, and

(b) it shall be accompanied by the original instrument or instruments evidencing the partnership as in existence from time to time during the previous year and up to the date of the application together with copies thereof. A certified copy of the instrument or instruments together with a duplicate copy thereof may be attached to the application if, for sufficient reason, the original instrument or instruments cannot be produced

(5) The application shall be signed personally by all the partners (not being minors) in the firm as constituted at the date of the application and, in the case of a dissolved firm, personally by all the persons (not being minors) who were partners in the firm immediately before its dissolution and by the legal representative of any such partner who is deceased so, however, that in the case of any partner who is absent from India or is a lunatic or an idiot, the application may be signed by any person duly authorised by him in this behalf, or, as the case may be, by a person entitled under law to represent him

**23 Intimation regarding subsequent changes in constitution, etc —** If after the date of the application, or of the last application where more than one application are made, for registration of a firm for any assessment year and before the assessment for that assessment year is completed by the Income-tax Officer, so far as known to the firm, any change or changes take place in the constitution of the firm or the shares of the partners, the details of such change or changes shall be communicated by the firm to the Income-tax Officer as soon as possible after each such change takes place

**24 Declaration for continuation of registration —** The declaration to be furnished under sub section (7) of section 184 shall be in Form No 12 and shall be verified in the manner indicated therein and shall be signed by the persons concerned in accordance with sub-rule (5) of rule 22

**25 Certificate of registration —** The certificate under sub-section (4) of section 185 shall be recorded on the last of the instruments evidencing the

partnership during the relevant previous year (or on the certified copy submitted in lieu thereof) attached with the application for registration of the firm made in accordance with sub-rules (2) to (4) of rule 22

## PART VI

### DEDUCTION OF TAX AT SOURCE

**26 Prescribed rate of exchange for salaries**—The prescribed rate of exchange for the calculation of the value in rupees of any income chargeable under the head "Salaries" which is payable to the assessee out of India in sterling by or on behalf of Government shall be 1s 6d per rupee

**27 Prescribed arrangements for declaration and payment of dividends within India**—The arrangements referred to in sections 194, 195, 236 and 286 to be made by a company for the declaration and payment of dividends (including dividends on preference shares) within India shall be as follows —

- (1) The share-register of the company for all shareholders shall be regularly maintained at its principal place of business within India, in respect of any assessment year from a date not later than the 1st day of April of such year
- (2) The general meeting for passing the accounts of the previous year relevant to the assessment year and for declaring any dividends in respect thereof shall be held only at a place within India
- (3) The dividends declared, if any, shall be payable only within India to all shareholders

**28 Applications for certificates for deduction of tax at lower rates**—(1) An application by a person other than a company for a certificate under clause (a) of sub section (1) of section 197 in respect of interest on securities shall be made in Form No 13

(2) An application by a person, other than a company, for a certificate under the proviso to section 194 shall be made in Form No 14

(3) An application by a person, other than a company, for a certificate under clause (b) of sub section (1) of section 197 shall be made in Form No 14A

**29 Certificate of no deduction of tax or deduction at lower rates from dividends**—(1) The Income-tax Officer may give a certificate in accordance with the proviso to section 194 or clause (b) of sub section (1) of section 197 authorising the payment of a dividend to a shareholder, other than a company, without deduction of tax or, as the case may be, without deduction of super tax or after deduction of super-tax at rates lower than the rates in force only if the following conditions are satisfied, namely —

(a) The shares in respect of which the certificate is sought for by him—

(i) are shares in public companies, and

(ii) stand in his name and are beneficially owned by him, and the dividends therefrom are not includible in the total income of any other person under sections 60 to 64,

or

stand in his name and are held by him under trust wholly for charitable or religious purposes, and the dividends

therefrom are exempt from tax under the provisions of sections 11 and 13 Div. 3  
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- (b) An application for the certificate is made to the Income-tax Officer in accordance with sub-rule (2) or sub-rule (3), as the case may be, of rule 28

(2) The certificate shall be valid for such period (not exceeding three years from the date of certificate), as the Income-tax Officer may specify therein, unless it is cancelled by him at any time before the expiry of the specified period. An application for a fresh certificate may be made, if required, after the expiry of the period of validity of the earlier certificate

(3) The certificate shall be valid only for the person named therein, and shall cease to be operative from the date of notice to the company of the transfer of any of the shares mentioned therein to another person, in respect of the shares so transferred

(4) The certificate shall be issued direct to the Principal Officer of the company under advice to the applicant shareholder

(5) The certificate shall be issued in Form No 15

**30 Time and mode of payment to Government account of tax deducted at source**—(1) All sums deducted in accordance with the provisions of sections 192 to 195 shall be paid to the credit of the Central Government—

- (a) in the case of deduction by or on behalf of Government, on the same day, and  
(b) in all other cases, within one week from the date of such deduction or the date of receipt of the chalan by the person making the deduction, as the case may be

Provided that in cases falling under clause (b) of this sub-rule, the Income-tax Officer may, in special cases and with the approval of the Inspecting Assistant Commissioner, permit an employer to pay the income-tax and super tax deducted from any income chargeable under the head "Salaries" quarterly on June 15th, September 15th, December 15th and March 15th

(2) The person responsible for making the deduction from any income chargeable under the head "Salaries" or, in cases covered by sub section (5) of section 192, the trustees shall pay the amount of tax so deducted to the credit of the Central Government by remitting it within the time prescribed in sub-rule (1) into the Government Treasury or office of the Reserve Bank of India or of the State Bank of India accompanied by an income-tax chalan, blank copies of which shall be supplied by the Income-tax Officer on request for the purpose

Provided that on receipt of the return referred to in rule 32 or rule 33 the Income-tax Officer may, if so expressly requested and if satisfied that there is sufficient ground for the request, himself have the necessary chalans prepared and forwarded to the person concerned, who shall thereupon pay the amount to the credit of the Central Government in the manner above described

Provided further that where the deduction is made by or on behalf of Government, the amounts shall be credited within the time and in the manner aforesaid without the production of a chalan

(3) The person responsible for making deduction under sections 193, 194 and 195 shall pay the amount of tax so deducted to the credit of the Central Government by remitting it within the time prescribed in sub-rule (1) into the Government Treasury or office of the Reserve Bank of India or the State

Bank of India accompanied by an income tax chalan, blank copies of which will be supplied by the Income tax Officer on request for the purpose, provided that where the deduction is made by or on behalf of Government the amount shall be credited within the time and in the manner aforesaid without the production of a chalan

**31 Certificates of tax deducted at source**—(1) The certificate of deduction of tax to be furnished under section 203 by any person paying income chargeable under the head "Salaries" shall be in Form No. 16

(2) The certificate of deduction of tax to be furnished under section 203 by any person paying interest on a security of the Central Government or of a State Government, shall be in Form No. 17

(3) The certificate of deduction of tax to be furnished under section 203 by any person paying interest on debentures or other securities for money issued by or on behalf of a local authority or a company or a corporation established by a Central, State or Provincial Act shall be in Form No. 18

(4) The certificate of deduction of tax to be furnished by the principal officer of a company under section 203 in respect of dividends shall be in Form No. 19

(5) The certificate of deduction of tax to be furnished under section 203 by any person paying any sum, not being a sum referred to in sub rules (1) to (4), chargeable under the provisions of the Act shall be in Form No. 20

**32 Monthly return of deduction of tax from "Salaries"**—(1) In the case of income chargeable under the head "Salaries" where deduction is made except by or on behalf of Government, the person responsible for paying the income shall forthwith send a return in Form No. 21 to the Income tax Officer specified in sub rule (2)

(2) The return referred to in sub rule (1) shall be sent—

(i) in cases where the jurisdiction over the employees has been vested in any particular Income-tax Officer under section 126, to that Income-tax Officer,

(ii) in any other case, to the Income tax Officer within whose area of jurisdiction the office of the person responsible for paying the salaries is situated (or where there is more than one Income tax Officer having jurisdiction in the same area, the Income tax Officer specified by the Commissioner)

(3) The return referred to in sub rule (1) shall in the cases covered by clause (ii) of sub rule (2), be drawn up in separate parts one for each place where the employees are stationed and an additional extract of those parts relating to employees who are residing outside the jurisdiction of the Income tax Officer referred to in the said clause shall also be sent with the return

**33 Return of deduction of tax from contributions paid by the trustees of an approved superannuation fund**—(1) In cases where the trustees of an approved superannuation fund pay any contributions made by an employer, including interest on such contributions, to an employee during his life time, they shall forthwith send to the Income tax Officer specified in sub rule (2) of rule 32, a return in Form No. 22

(2) The provisions of sub rule (3) of rule 32 shall apply in relation to the return referred to in sub rule (1) as they apply in relation to the return referred to in sub rule (1) of rule 32

**34 Return in lieu of monthly return under rule 32**—In the case of income chargeable under the head "Salaries" where deduction is made except

by or on behalf of Government, the Commissioner may, in his discretion, waive the requirement of rule 32 regarding the submission of the detailed monthly return subject to the following conditions and any other condition which he may prescribe —

- (i) A certificate in Form No 23 shall be furnished to the Income-tax Officer mentioned in sub rule (2) of rule 32 immediately after the end of each month ,
- (ii) In the case of an employee leaving service, the particulars in Form No 21 shall be sent forthwith to the Income tax Officer aforesaid

**35 Annual return of salaries paid and tax deducted therefrom** —(1) The return to be delivered to the Income-tax Officer under sub section (1) of section 206 within thirty days from the 31st day of March in each year shall be prepared in Form No 24 and shall be verified in the manner indicated therein

(2) The return referred to in sub-rule (1) shall be delivered to the Income-tax Officer specified in sub rule (2) of rule 32

(3) The provisions of sub-rule (3) of rule 32 shall apply in relation to the return referred to in sub rule (1) as they apply in relation to the return referred to in sub-rule (1) of rule 32

(4) The minimum income under the head "Salaries" referred to in clause (a) of sub-section (1) of section 206 shall be Rs 600 less than the maximum amount which, if it were the total income, would be exempt from tax in the hands of an individual in the financial year in which the income is earned

Provided that in any case in which any tax was deducted at source from payments chargeable under the head "Salaries" full particulars thereof shall be included in the return prescribed in sub rule (1)

**36 Prescribed persons for section 206** —In the case of offices of the Government the return under sub-section (1) of section 206 shall be furnished by—

- (a) Civil Audit Officers/Pay and Accounts Officers for all Gazetted Officers and others who draw their pay from audit offices/Pay and Accounts Offices on separate bills , and also for all pensioners who draw their pensions from audit offices ,
- (b) Treasury Officers for all gazetted officers and others who draw their pay from treasuries on separate bills without counter-signature and also for all pensioners who draw their pensions from treasuries ,
- (c) heads of Civil or Military offices for all non-gazetted officers whose pay is drawn on establishment bills or on bills countersigned by the head of office ,
- (d) forest disbursing officers and Public Works Department Disbursing Officers in cases where direct payment from treasuries is not made, for themselves and their establishments ,
- (e) Head Postmasters for (i) themselves, their gazetted subordinates and the establishments of which the establishment pay bills are prepared by them and (ii) gazetted supervising and controlling officers of whose headquarters post office they are incharge and (iii) pensioners drawing their pensions through post offices , Head record clerks for themselves and all the

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staff whose pay is drawn in their establishment pay bills, Divisional Engineers in respect of Telegraph and Telephone Engineering Divisions, Accounts Officers, Stores and Workshops for the Stores and Workshops organisation and the Disbursing Officers in the case of the Administrative and Audit offices,

- (f) (i) Controllers of Defence Accounts for Defence Services Officers and others including civilian Gazetted Officers under their payment control,
- (ii) Officer Commanding Air Force Central Accounts Office, New Delhi—for Air Force Officers and others for whom IRLAs are maintained by them,
- (iii) Supply Officer in-charge Naval Pay Office, Bombay—for Navy Officers and ratings for whom IRLAs are maintained by them,
- (iv) Chief Accounting Officer, London—for Defence Services Personnel serving in or attached to High Commission in U K,
- (g) the Financial Adviser and Chief Accounts Officer/Deputy Financial Adviser and Chief Accounts Officer of the Railways concerned for all Railway employees including the employees of the Railway Audit Department under their payment control,
- (h) heads of offices in the Missions and Posts abroad for themselves and for all gazetted and other officers under their administrative control,
- (i) Trade Commissioners abroad, wherever their establishments are independent of the Missions, for themselves and for all gazetted and other officers under their administrative control,
- (j) the Chief Accounts Officers, India Supply Mission, Washington and India Stores Department, London, for themselves and for the gazetted and other officers under their administrative control,
- (k) the Director/Managers of the Tourist offices abroad, for themselves and for the gazetted and other officers under their administrative control

37 Returns regarding tax deducted at source in other cases —(1) In the case of income chargeable under the head "Interest on securities" where the deduction is not made by or on behalf of the Government, the person making deduction of tax under section 193 shall within fourteen days of the date of deduction send to the Income-tax Officer having jurisdiction to assess him a statement in Form No 25

(2) The person making deduction of tax in accordance with section 194 from dividends shall within fourteen days of the date of deduction send to the Income tax Officer assessing the company a statement in Form No 26

(3) The person making deduction of tax in accordance with sections 193, 194 and 195 from any payment made to—

- (i) a person, not being a company, who is a non-resident or a resident but not ordinarily resident, or
- (ii) a company which is neither an Indian company nor a company which has made the prescribed arrangements for the declaration and payment of dividends within India,

shall within fourteen days of the date of deduction send to the Income-tax Officer having jurisdiction to assess him a statement in Form No 27

## PART VII

## PAYMENT OF ADVANCE TAX

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**38 Notice of demand** —Notwithstanding anything contained in rule 15, the notice of demand under section 156 to be served upon the assessee in pursuance of an order under section 210 shall be in Form No 28

**39 Estimate of advance tax** —The estimate which an assessee has to send to the Income tax Officer under sub-section (1) or sub-section (2) or sub-section (3) of section 212 shall be in Form No 29

**40 Waiver of interest** —The Income-tax Officer may reduce or waive the interest payable under section 215 or section 217 in the cases and under the circumstances mentioned below, namely—

- (1) When the relevant assessment is completed more than one year after the submission of the return, the delay in assessment not being attributable to the assessee
- (2) Where a person is under section 163 treated as an agent of another person and is assessed upon the latter's income
- (3) Where the assessee has income from an unregistered firm assessed under the provisions of clause (b) of section 183
- (4) Where the previous year is the financial year or any year ending about the close of the financial year and large profits are made after the 1st March (or the 15th March in cases where the proviso to section 211 applies) in circumstances which could not be foreseen
- (5) Any case in which the Inspecting Assistant Commissioner considers that the circumstances are such that a reduction or waiver of the interest payable under section 215 or section 217 is justified

## PART VIII

## REFUNDS

**41 Refund claim** —(1) A claim for refund under Chapter XIX shall be made in Form No 30

(2) The claim under sub-rule (1) shall be accompanied by a return in the form prescribed under section 139 unless the claimant has already made such a return to the Income-tax Officer

(3) Where any part of the total income of a person making a claim for refund of tax consists of dividends or any other income from which tax has been deducted under the provisions of sections 192 to 195, the claim shall be accompanied by the certificates prescribed under section 203

(4) The claim under sub-rule (1) may be presented by the claimant in person or through a duly authorised agent or may be sent by post

## PART IX

## TAX CLEARANCE CERTIFICATES

**42 Application for tax clearance certificate** —(1) An application under section 230 for a tax clearance certificate or an exemption certificate may be made in Form No 31 to any competent authority



(2) Where the applicant is a person domiciled in India or is a person who has been assessed by an Income-tax Officer anywhere in India, the application shall be accompanied by an authorisation in Form No 32 to be obtained by the applicant from the Income tax Officer who has jurisdiction to assess him

**43 Form of certificate** —(1) A tax clearance certificate issued under sub section (1) of section 230 shall be in Form No 33 and shall be valid for the period mentioned therein

(2) An exemption certificate issued under the proviso to sub section (1) of section 230 shall be in Form No 34 and shall be valid for the period mentioned therein

**44 Production of certificate** —Any person leaving India shall, at the request of any Customs Officer, produce to him for examination the tax clearance certificate or the exemption certificate, as the case may be

## PART X

### APPEALS

**45 Form of appeal to Appellate Assistant Commissioner** —(1) An appeal under section 246 or section 247 or section 248 to the Appellate Assistant Commissioner shall be made in Form No 35

(2) The form of appeal prescribed by sub-rule (1), the grounds of appeal and the form of verification appended thereto shall be signed—

- (a) in the case of an individual, by the individual himself, where the individual is absent from India, by the individual concerned or by some person duly authorised by him in this behalf, and where the individual is mentally incapacitated from attending to his affairs, by his guardian or by any other person competent to act on his behalf,
- (b) in the case of a Hindu undivided family, by the Karta, and, where the Karta is absent from India or is mentally incapacitated from attending to his affairs, by any other adult member of such family,
- (c) in the case of a company or local authority, by the principal officer thereof,
- (d) in the case of a firm, by any partner thereof, not being a minor,
- (e) in the case of any other association, by any member of the association or the principal officer thereof, and
- (f) in the case of any other person, by that person or by some person competent to act on his behalf

**46 Mode of service** —(1) The intimation of any such order as is referred to in clause (c) of sub section (2) of section 249 shall be served in the same manner as is laid down in section 282 for the service of a notice or requisition

(2) Any other order, not being a notice or requisition, which is to be sent or communicated to, or served on, any person shall be sent, communicated or served either by post or as if it were a summons issued by a court under the Code of Civil Procedure, 1908 (V of 1908)

**47 Form of appeal and memorandum of cross-objections to Appellate Tribunal** —(1) An appeal under sub section (1) or sub-section (2) of section 253 to the Appellate Tribunal shall be made in Form No 36

(2) A memorandum of cross-objections under sub section (4) of section 253 to the Appellate Tribunal shall be made in Form No 36A Div 3  
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**48 Form of application for reference to High Court**—An application under sub section (1) of section 256 requiring the Appellate Tribunal to refer to the High Court any question of law shall be made in Form No 37

## PART XI

### AUTHORISED REPRESENTATIVES

**49 Definitions**—In this part—

- (a) "authorised income tax practitioner" means any authorised representative as defined in clause (v) or clause (vi) or clause (vi) of sub section (2) of section 288,
- (b) "prescribed authority" means the prescribed authority referred to in rule 52,
- (c) "register" means the register of income tax practitioners referred to in rule 53

**50 Accountancy examination recognised**—The following accountancy examination is recognised for the purpose of clause (v) of sub section (2) of section 288 —

The National Diploma in Commerce awarded by the All-India Council for Technical Education under the Ministry of Scientific Research and Cultural Affairs, New Delhi, provided the diploma-holder has taken Advanced Accountancy and Auditing as an elective subject for the Diploma Examination

**51 Educational qualifications prescribed**—The following educational qualifications are prescribed for the purpose of clause (vi) of sub section (2) of section 288 —

A degree in Commerce or Law conferred by any of the following Universities —

#### I Indian Universities

Any Indian University incorporated by any law for the time being in force

#### II Rangoon University

#### III English and Welsh Universities

The Universities of Birmingham, Bristol, Cambridge, Durham, Leeds, Liverpool, London, Manchester, Oxford, Reading, Sheffield and Wales

#### IV Scottish Universities

The Universities of Aberdeen, Edinburgh, Glasgow and St Andrews

#### V Irish Universities

The Universities of Dublin (Trinity College), the Queen's University, Belfast and the National University of Dublin

#### VI Pakistan Universities

Any Pakistan University incorporated by any law for the time being in force

**52 Prescribed authority for section 288(5)(b)**—For the purposes of clause (b) of sub section (5) of section 288, the "prescribed authority" shall

be the Commissioner having jurisdiction over the case in the proceedings connected with which the income-tax practitioner is alleged to be guilty of misconduct

**53 Register of income tax practitioners**—Every Commissioner shall maintain in Form No 38 a register of authorised income tax practitioners to whom certificates of registration have been issued by him under rule 55

**54 Application for registration**—(1) Any person who wishes to have his name entered as an authorised income-tax practitioner in the register shall apply to the Commissioner within whose area of jurisdiction he has been practising. The application shall be made in Form No 39 and shall be accompanied by documentary evidence regarding his eligibility for income tax practice under clause (v), or clause (vi) or clause (vii) of sub section (2) of section 288

(2) The applicant shall also furnish such further information as the Commissioner may require in connection with the disposal of the application

**55 Certificate of registration**—If the Commissioner is satisfied that the applicant fulfils the requirements of clause (v) or clause (vi) or clause (vii) of sub section (2) of section 288 and has been practising before income tax authorities for not less than one year on the date of the application, the Commissioner shall enter the name of the applicant in the register and issue him a certificate of registration in Form No 40

**56 Cancellation of certificate**—(1) A certificate of registration shall stand cancelled when the name of the holder of the certificate is removed from the register under these rules

(2) When the name of the holder of the certificate is removed from the register, the Commissioner maintaining the register shall notify the fact of such removal to the authorised income tax practitioner concerned and also to other Commissioners of Income-tax (who shall notify the fact of the removal to the income tax authorities subordinate to them) and to the Appellate Tribunal

**57 Cancellation of certificate obtained by misrepresentation**—(1) If at any time the Commissioner is satisfied that a certificate of registration was obtained by misrepresentation as to an essential fact, he shall order the removal of the name of the income-tax practitioner from the register

(2) No order under sub rule (1) shall be passed unless the authorised income tax practitioner has been given a reasonable opportunity of being heard in regard to the proposed removal

**58 Removal of name of authorised income tax practitioner who is insolvent or on whom penalty has been imposed**—During the period for which a person whose name has been entered in the register is in the circumstances referred to in clause (b) or clause (c) of sub section (4) of section 288 disqualified to represent an assessee, his name shall be removed from the register and shall be re entered only after the completion of the aforesaid period

**59 Prescribed authority to order an inquiry**—No order directing that an authorised income tax practitioner shall be disqualified to represent an assessee shall be passed under clause (b) of sub section (5) of section 288 except after an inquiry held as far as may be in the manner hereinafter provided in rules 60 to 65

**60 Charge sheet**—Where the prescribed authority on the basis of information in its possession is of the opinion that *prima facie* an authorised income-tax practitioner is guilty of misconduct in connection with any income-tax proceedings, it shall frame definite charges against the income-tax

practitioner and shall communicate them in writing to him together with a statement of the allegations in support of the charges. The authorised income tax practitioner shall be required to submit within such time as may be specified by the prescribed authority a written statement of his defence and also to state whether he desires to be heard in person

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**61 Inquiry Officer** —The prescribed authority shall, unless it proposes to conduct the inquiry itself, appoint an Inquiry Officer, not below the rank of an Assistant Commissioner of Income tax, to conduct the inquiry and shall inform the authorised income tax practitioner of the appointment of such an Inquiry Officer

**62 Proceedings before Inquiry Officer** —(1) On receipt of the written statement of defence, or if no such statement is received within the time specified, the Inquiry Officer shall inquire into such of the charges as are not admitted

(2) The Inquiry Officer shall, in the course of the inquiry, consider such documentary evidence and take such oral evidence as may be relevant or material in regard to the charges. The authorised income-tax practitioner shall be entitled to cross examine witnesses examined in support of the charges and to give evidence in person. If the Inquiry Officer declines to examine any witness on the ground that his evidence is not relevant or material, he shall record his reasons in writing

(3) At the conclusion of the inquiry, the Inquiry Officer shall prepare a report of the inquiry, recording his findings on each of the charges together with the reasons therefor

**63 Order of the prescribed authority** —(1) The prescribed authority shall consider the report of the Inquiry Officer and record its findings on each charge and, where it does not agree with the findings of the Inquiry Officer, shall record the reasons for its disagreement

(2) If the prescribed authority is satisfied on the basis of its findings on the Inquiry Officer's report that the authorised income-tax practitioner is guilty of misconduct in connection with any income-tax proceedings, it shall pass an order directing that the authorised income-tax practitioner shall be disqualified to represent an assessee under sub section (1) of section 288 for such period as it may determine and his name shall be removed from the register for that period

(3) The prescribed authority shall while communicating its order under sub rule (2) furnish to the authorised income-tax practitioner a copy of the report of the Inquiry Officer and a statement of its findings together with the reasons for disagreement, if any, with the findings of the Inquiry Officer

**64 Procedure if no Inquiry Officer appointed** —The procedure prescribed in the aforesaid rules shall *mutatis mutandis* apply when the prescribed authority itself conducts the inquiry without appointing an Inquiry Officer

**65 Change of Inquiry Officer** —If a change of an Inquiry Officer becomes necessary in the midst of an inquiry, the prescribed authority may appoint any other Inquiry Officer not below the rank of an Assistant Commissioner of Income tax and the proceedings shall be continued by the succeeding Inquiry Officer from the stage at which they were left by his predecessor

**66 Powers of prescribed authority and Inquiry Officer** —For the purposes of any proceedings under rules 59 to 65, the prescribed authority and the Inquiry Officer shall have the same powers as are vested in a Court under the Code of Civil Procedure, 1908 (V of 1908) when trying a suit in respect of the following matters —

- (a) discovery and inspection ,
- (b) enforcing the attendance of any person including any officer of a banking company and examining him on oath ,
- (c) compelling the production of books of accounts and other documents , and
- (d) issuing commissions

## PART XII

### RECOGNISED PROVIDENT FUNDS

**67 Investment of fund moneys** —All moneys contributed to a provident fund (whether by the employer or by the employees) or accruing by way of interest or otherwise to the fund shall be wholly invested—

- (a) where the employer is not a company [as defined in clause (i) of sub section (1) of section 3 of the Companies Act, 1956 (I of 1956)] in securities of the nature specified in clauses (a), (b), (c), (d) or (e) of section 20 of the Indian Trusts Act, 1882 (II of 1882) or in a Post Office Savings Bank Account in India, and
- (b) where the employer is a company [as defined in clause (i) of sub section (1) of section 3 of the Companies Act, 1956 (I of 1956)] in accordance with the provisions of sub-section (1) of section 418 of the Companies Act, 1956 (I of 1956),

so, however, that in all cases the securities in which the contributions made by employees after the date of recognition of the provident fund and the interest on the accumulated balance of such contributions are invested are payable both in respect of capital and of interest in India

**68 Circumstances in which withdrawals may be permitted** —(1) Withdrawals by employees may be allowed by the trustees of the provident fund in the following circumstances —

- (a) to pay expenses incurred in connection with the illness of the employee or a member of his family ,
- (b) to pay for the cost of passage to a place out of India of an employee or any member of his family ,
- (c) to pay expenses in connection with marriages, funerals or ceremonies, which by the religion of the employee it is incumbent upon him to perform ,
- (d) to meet the expenditure on building or purchasing a house and/or a site for a house provided that such house or site is assigned to the trustees of the fund

Provided that in the case of an employee whose income under the head "Salaries" does not exceed Rs 3,600 per annum, the trustees may, in their discretion, waive the condition that such house or site shall be assigned to them and instead require as a condition that the employee shall not encumber or alienate the property in any manner ,

- (e) to pay premia on policies of insurance on the life of the employee or of his wife provided that the policy is assigned to the trustees of the Fund or at their discretion deposited with them and that the receipts granted by the insurance company for the premia are from time to time handed over to the trustees for inspection by the Income tax Officer ,

- (f) to meet the cost of legal proceedings instituted by the employee for vindicating his position in regard to any allegations made against him in respect of any act done or purporting to be done by him in the discharge of his official duty or to meet the cost of his defence when he is prosecuted by the employer in any court of law in respect of any official misconduct on his part

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Provided that the advance under this clause shall not be admissible to an employee who institutes legal proceedings in any court of law either in respect of any matter unconnected with his official duty or against employer in respect of any condition of service or penalty imposed on him

- (2) For the purposes of sub rule (1), "family" means any of the following persons who are wholly dependent on the employee, namely — the employee's wife, legitimate children, step children, parents, sisters and minor brothers

**69 Conditions for withdrawal for various purposes —**(1) The withdrawal in connection with expenses on marriages as specified in clause (c) of sub rule (1) of rule 68 shall not exceed six months' pay or the total of the accumulation of exempted contributions and exempted interest lying to the credit of the employee, whichever is less

- (2) The withdrawal for the purpose specified in clause (d) of sub-rule (1) of rule 68 shall be subject to the following conditions —

- (i) the amount of withdrawal shall not exceed one half of the amount standing to the employee's credit or the actual cost of the house and/or of the site, whichever is less ,
- (ii) the employee shall have completed twenty-five years of service or is due to retire within the next five years ,
- (iii) the construction of the house should be commenced within six months of the withdrawal and should be completed within one year from the date of the commencement of the construction ,
- (iv) if the withdrawal is made for the purchase of a house and/or a site for a house, the purchase should be made within six months of the withdrawal ,
- (v) if the withdrawal is made for the repayment of loan previously raised for the purpose of construction or purchase of a house, the repayment of the loan should be made within three months of the withdrawal ,
- (vi) where the withdrawal is for the construction of a house, it shall be permitted in two or more equal instalments (not exceeding four) a later instalment being permitted only after verification by the trustees about the actual utilisation of the earlier withdrawal ,
- (vii) the withdrawal shall be permitted only if the house and/or site is free from encumbrances and no withdrawal shall be permitted for purchasing a share in a joint property or building or house or land whose ownership is divided ,
- (viii) if the amount withdrawn exceeds the actual cost of the purchase or construction of the house and/or site, or if the amount is not utilised for the purpose for which it is withdrawn, the excess or the whole amount, as the case may be, shall be refunded to the trustees forthwith in one lump sum together

with interest from the month of such withdrawal at the rate prescribed in sub rule (4) of rule 71. The amount refunded shall be credited to the employee's account in the Provident Fund

(3) The withdrawal for the purpose specified in clause (f) of sub rule (1) of rule 68 shall not exceed three months' pay or Rs 500, whichever is greater, but shall in no case exceed half the amount to the credit of the employee

(4) The withdrawal for any other purpose referred to in sub-rule (1) of rule 68 shall not exceed three months' pay or the total of the accumulation of exempted contributions and exempted interest lying to the credit of the employee, whichever is less

(5) For the purpose of this rule, "pay" means the pay to which the employee is entitled at the time when the withdrawal is granted or, in the case of an employee referred to in sub rule (2) of rule 5 of Part A of the Fourth Schedule, the pay (including increments, if any) which he would have received had he not entered the armed forces of the Union or been taken into or employed in the national service

**70 Second withdrawal**—(1) Save as in sub rule (2), a second withdrawal shall not be permitted until the sum first withdrawn has been fully repaid

(2) A withdrawal may be permitted for the purpose specified in clause (e) of sub-rule (1) of rule 68 notwithstanding that the sum withdrawn for any other purpose has not been repaid

**71 Repayment of amounts withdrawn**—(1) Subject to the provisions of clause (iii) of sub-rule (2) of rule 69 where a withdrawal is allowed for a purpose specified in clause (d) or clause (e) of sub-rule (1) of rule 68 the amount withdrawn need not be repaid

(2) Where a withdrawal is allowed in connection with marriages as specified in clause (c) of sub-rule (1) of rule 68, the amount withdrawn shall be repaid in not more than forty-eight equal monthly instalments

(3) Where a withdrawal is allowed for any other purpose, the amount withdrawn shall be repaid in not more than twenty-four equal monthly instalments

(4) In respect of withdrawals referred to in sub-rules (2) and (3) and of the amount referred to in clause (viii) of sub-rule (2) of rule 69, interest shall be paid in accordance with the following table —

TABLE

| 1                                                                                                       | 2                                                          |
|---------------------------------------------------------------------------------------------------------|------------------------------------------------------------|
| Where the amount is repaid in not more than 12 monthly instalments                                      | One additional instalment of 4% on the amount withdrawn    |
| Where the amount is repaid in more than 12 but not more than 24 monthly instalments                     | Two additional instalments of 4% on the amount withdrawn   |
| Where the amount is repaid in more than 24 monthly instalments but not more than 36 monthly instalments | Three additional instalments of 4% on the amount withdrawn |
| Where the amount is repaid in more than 36 monthly instalments but not more than 48 monthly instalments | Four additional instalments of 4% on the amount withdrawn  |
| Where the amount is refunded under clause (viii) of sub rule (2) of rule 69                             | 4% of the amount which is refundable                       |

Provided that at the discretion of the trustees of the Fund, interest may be recovered on the amount aforesaid or the balance thereof outstanding from time to time at 1 per cent above the rate which is payable for the time being on the balance in the Fund at the credit of the employee

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(5) The employer shall deduct the instalments aforesaid from the employee's salary, and pay them to the trustees of the Fund. These deductions shall commence from the second monthly payment of salary made after the withdrawal or, in the case of an employee on leave without pay, from the second monthly payment of salary made after his return to duty

**72 Amount withdrawn but not repaid may be deemed as income —** In case of default of repayment of instalments due under sub rule (2) or sub rule (3) or sub-rule (4) of rule 71 or where the amount withdrawn is not utilised for the purpose for which it is withdrawn, the Commissioner may at his discretion order that the amount of the withdrawal or the amount outstanding shall be added to the total income of the employee for the year in which the default occurs or the withdrawn amount is finally held not to have been utilised for the purpose for which it is withdrawn, and the Income-tax Officer shall assess the employee accordingly

**73 Withdrawal on leave preparatory to retirement —**Notwithstanding anything contained in rules 68 to 72, it shall be open to the trustees of a provident fund to permit the withdrawal of ninety per cent of the amount standing at the credit of an employee if the employee takes leave preparatory to retirement, provided that if he rejoins duty on the expiry of his leave he shall refund the amount drawn together with interest at the rate allowed by the fund

**74 Accounts —**(1) The accounts of a provident fund shall be prepared at intervals of not more than twelve months

(2) An account shall be maintained for each subscriber to the fund and it shall include the particulars shown in Form No 41

(3) Where the accounts of a provident fund are kept outside India, certified copies of the accounts shall be supplied not later than the 15th June in each year to a local representative of the employer in India

Provided that the Income tax Officer may in any year appoint a date later than the 15th June as the date by which the certified copies shall be supplied

(4) An abstract for the financial year or other applicable accounting period of the individual account of each employee participating in a provident fund in respect of whom a return is required to be furnished under sub-rule (4) of rule 35 shall be furnished by the trustees to the Income-tax Officer specified in sub rule (2) of rule 32 not later than the fifteenth day of June in each year or any other subsequent date fixed by the Income-tax Officer. It shall be in the form prescribed in sub rule (2) of this rule, but shall show only the totals of the various columns thereof for the financial year or other accounting period. It shall also give an account of any temporary withdrawals by the employee during the year and of the repayment thereof. Similar abstract shall also be furnished in respect of other employees participating in a provident fund who were allowed withdrawals under rules 68 to 70 or who come within the purview of sub-rule (1) of rule 75

(5) The account to be made under the provisions of sub-rule (1) of rule 11 of Part A of the Fourth Schedule shall show in respect of each employee (i) the total salary paid to the employee during the period of his participation in the provident fund, (ii) the total contributions, (iii) the total interest



(b) Number of employees subscribing to the fund—

(i) in India,

(ii) outside India

(c) Place where the accounts of the fund are or will be maintained

(d) If the fund is already in existence—

(i) a copy of the last balance sheet of the fund, where such is maintained,

(ii) details of investments of the fund

(4) A verification in the following form shall be annexed to the application —

#### *Form of verification*

We/I, the trustee(s) of the above-named fund, do declare that what is stated in the above application is true to the best of our/my information and belief, and that the documents sent herewith are the originals or true copies thereof

**78 Order of recognition** —An order according recognition to a provident fund shall take effect from the last day of the month in which the application for recognition is received by the income-tax authority concerned, unless, at the request of the employer, the last day of any later month in the same financial year is specified

**79 Withdrawal of recognition** —Before withdrawing recognition, the Commissioner shall give an opportunity to the employer and the trustees of the fund to show cause why recognition should not be withdrawn

**80 Exemption from tax when recognition withdrawn** —If the Commissioner withdraws recognition from a provident fund, the balance to the credit of each employee at the end of the financial year prior to the date of the withdrawal of recognition shall, subject to the provisions of rule 9 of Part A of the Fourth Schedule, be paid to him free of income-tax and super-tax at the time when such employee receives the accumulated balance due to him. The remainder of the accumulated balance due to him shall be liable to income-tax and super-tax as if the fund had never been recognised

**81 Appeal** —An appeal under sub-rule (1) of rule 13 of Part A of the Fourth Schedule shall be in Form No 42 and shall be verified in the manner indicated therein and shall be accompanied by a fee of rupees one hundred

### PART XIII

#### APPROVED SUPERANNUATION FUNDS

**82 Definitions** —In this Part—

(1) “beneficiary” means a person referred to in clause (b) of rule 3 of Part B of the Fourth Schedule for whom provision of annuity is made,

(2) “fund” means a superannuation fund or a part of a superannuation fund, and

(3) “trust” means the trust under which the superannuation fund is established and “trustee” means a trustee thereof

**83 Establishment of fund and trust**—The fund and the trust shall be established in India

**84 Conditions regarding trustees**—(1) The trust shall have at least two trustees provided that a company [as defined in clause (i) of sub section (1) of section 3 of the Companies Act, 1956 (I of 1956)] shall not be appointed as a trustee without the prior approval of the Commissioner

(2) The trustees of the fund shall be resident in India and any trustee who leaves India permanently shall vacate his office

**85 Investment of fund moneys**—All moneys contributed to the fund or received or accruing by way of interest or otherwise to the fund shall, within fifteen days from the date of contribution, receipt or accrual, as the case may be, either—

(a) be deposited—

- (i) in a post office savings bank account, or
- (ii) in a special account to be opened for the purpose in the State Bank of India or in a Scheduled Bank, or
- (iii) where the employer itself is a Scheduled Bank, in a special account to be opened for the purpose either in that bank or in the State Bank of India or in any other Scheduled Bank, or

(b) be invested in the securities mentioned or referred to in clauses (a) to (e) of section 20 of the Indian Trusts Act, 1882 (II of 1882), and payable both in respect of capital and interest in India

**86 Admission of Directors to a fund**—Where the employer is a company as defined in clause (i) of sub-section (1) of section 3 of the Companies Act, 1956 (I of 1956), a director of the company may be admitted to the benefits of the fund only if he is a whole-time *bona fide* employee of the company and does not beneficially own shares in the company carrying more than five per cent of the total voting power

**87 Ordinary annual contributions**—The ordinary annual contribution by the employer to a fund in respect of any particular employee shall not exceed twenty five per cent of his salary for each year as reduced by the employer's contribution, if any, to any provident fund (whether recognised or not) in respect of the same employee for that year

**88 Initial contributions**—Subject to any condition which the Board may think fit to specify under clause (iv) of sub-section (1) of section 36, the amount to be allowed as a deduction on account of an initial contribution which an employer may make in respect of the past services of an employee admitted to the benefits of a fund shall not exceed twenty-five per cent of the employee's salary for each year of his past service with the employer as reduced by the employer's contribution, if any, to any provident fund (whether recognised or not) in respect of that employee for each such year

**89 Scheme of insurance or annuity**—For the purpose of providing the annuities for the beneficiaries, the trustees shall—

- (i) enter into a scheme of insurance with the Life Insurance Corporation established under the Life Insurance Corporation Act, 1956 (XXXI of 1956), or
- (ii) accumulate the contributions in respect of each beneficiary and purchase an annuity from the said Life Insurance Corporation of India at the time of the retirement or death of each employee or on his becoming incapacitated prior to retirement

**90 Commutation not allowed**—A beneficiary shall not be allowed to commute the benefits admissible to him from the fund Div 3  
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**91 Beneficiary not to have any interest in insurance and employer not to have any interest in fund's moneys**—(1) No beneficiary shall have any interest in any insurance policy taken out by the trustees under the rules of a fund and he shall be entitled only to an annuity from the fund

(2) No money belonging to the fund shall be receivable by the employer under any circumstances nor shall the employer have any lien or charge on the fund

**92 Penalty if employee assigns or charges interest in fund**—If an employee assigns or creates a charge upon his beneficial interest in a fund, the Income-tax Officer shall give notice to the employee that if he does not secure the cancellation of the assignment or charge within two months of the date of receipt of the notice, the consideration received for such assignment or charge shall be deemed to be income received by him in the previous year in which the fact became known to the Income-tax Officer and shall be assessed accordingly

**93 Arrangements on winding up, etc., of business**—Where the employer's trade or undertaking is to be wound up or discontinued, the trustees shall, with the prior approval of, and subject to such conditions as may be imposed by, the Commissioner make satisfactory arrangements for the payment of annuities to the existing employees or, on the death of the employees, to their widows, children or dependents

**94 Arrangements for winding up, etc., of fund**—Any arrangements for the winding up of the fund or for its amalgamation with another fund shall be subject to the prior approval of, and subject to such conditions as may be imposed by, the Commissioner

**95 Application for approval**—(1) The application for approval of a fund or part of a fund under sub rule (1) of rule 4 of Part B of the Fourth Schedule shall contain the following information —

- (a) Name of employer and address, his business, profession, etc., also his principal place of business
- (b) Classes and number of employees entitled to the benefits of the fund—
  - (i) in India,
  - (ii) outside India
- (c) Place where the accounts of the fund are or will be maintained

(2) A verification in the following form shall be annexed to the application —

#### *Form of verification*

We/I, the trustee(s) of the above-named fund, do declare that what is stated in the above application is true to the best of our/my information and belief, and that the documents sent herewith are the originals or true copies thereof

**96 Amendment of rules, etc., of fund**—No alteration in the rules, constitution, objects or conditions of an approved fund shall be made without the prior approval of the Commissioner

**97. Appeal**—An appeal under sub rule (1) of rule 8 of Part B of the Fourth Schedule shall be made in Form No 43 and shall be verified in the

manner indicated therein and shall be accompanied by a fee of rupees one hundred

## PART XIV

### APPROVED GRATUITY FUNDS

#### 98 Definitions —In this Part—

- (a) "beneficiary" means a person referred to in clause (b) of rule 3 of Part C of the Fourth Schedule for whom provision of gratuity is made,
- (b) "fund" means a "gratuity fund", and
- (c) "trust" means the trust under which the fund is established and "trustee" means a trustee thereof

**99 Establishment of fund and trust**—The fund and the trust shall be established in India

**100 Conditions regarding trustees**—(1) The trust shall have at least two trustees provided that a company [as defined in sub clause (1) of sub section (1) of section 3 of the Companies Act, 1956 (I of 1956)] shall not be appointed as a trustee without the prior approval of the Commissioner

(2) The trustees of the fund shall be resident in India and any trustee who leaves India permanently shall vacate his office

**101 Investment of fund moneys**—All moneys contributed to the fund or received or accruing by way of interest or otherwise to the fund shall, within fifteen days from the date of contribution, receipt or accrual, as the case may be, either—

(a) be deposited—

- (i) in a post office savings bank account, or
- (ii) in a special account to be opened for the purpose in the State Bank of India or in a Scheduled Bank, or
- (iii) where the employer itself is a Scheduled Bank, in a special account to be opened for the purpose either in that bank or in the State Bank of India or in any other Scheduled Bank, or

(b) be invested in the securities mentioned or referred to in clauses (a) to (e) of section 20 of the Indian Trusts Act, 1882 (II of 1882), and payable both in respect of capital and interest in India

**102 Admission of directors to a fund**—Where the employer is a company as defined in clause (1) of sub-section (1) of section 3 of the Companies Act, 1956 (I of 1956), a director of the company may be admitted to the benefits of the fund only if he is a whole-time *bona fide* employee of the company and does not beneficially own shares in the company carrying more than five per cent of the total voting power

**103 Ordinary annual contributions**—The ordinary annual contribution by the employer to a fund shall be made on a reasonable basis as may be approved by the Commissioner having regard to the length of service of each employee concerned so, however, that such contribution shall not exceed  $8\frac{1}{2}$  per cent of the salary of each employee during each year

**104 Initial contributions**—The amount to be allowed as a deduction on account of an initial contribution which an employer may make in respect of the past services of an employee admitted to the benefits of a fund shall

not exceed  $8\frac{1}{2}$  per cent of the employee's salary for each year of his past service with the employer

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**105 Penalty if employee assigns or charges interest in fund**—If an employee assigns or creates a charge upon his beneficial interest in a fund, the Income-tax Officer shall give notice to the employee that if he does not secure the cancellation of the assignment or charge within two months of the date of receipt of the notice, the consideration received for such assignment or charge shall be deemed to be income received by him in the previous year in which the fact became known to the Income-tax Officer and shall be assessed accordingly

**106 Employer not to have interest in fund moneys**—No money belonging to the fund shall be receivable by the employer under any circumstances nor shall the employer have any lien or charge on the fund

**107 Arrangements for winding up, etc., of business**—Where the employer's trade or undertaking is to be wound up or discontinued, the trustees shall, with the prior approval of, and subject to such conditions as may be imposed by, the Commissioner, make satisfactory arrangements for the payment of gratuity to the existing beneficiaries

**108 Arrangements for winding up of the fund**—Any arrangements for the winding up of the fund or for its amalgamation with another fund shall be subject to the prior approval of, and to such conditions as may be imposed by the Commissioner

**109 Application for approval**—(1) The application for approval of a gratuity fund under sub-rule (1) of rule 4 of Part C of the Fourth Schedule shall contain the following information —

- (a) Name of employer and address, his business, profession, etc., also his principal place of business
- (b) Classes and number of employees entitled to admission to the fund—
  - (i) in India,
  - (ii) outside India
- (c) Place where the accounts of the fund are or will be maintained
- (d) If the fund is already in existence, the details of investment of the fund

(2) A verification in the following form shall be annexed to the application —

#### *Form of verification*

We/I, the trustee(s) of the above named fund, do declare that what is stated in the above application is true to the best of our/my information and belief, and that the documents sent herewith are the originals or true copies thereof

**110 Amendment of rules, etc., of fund**—No alteration in the rules, constitution, objects or conditions of an approved fund shall be made without the prior approval of the Commissioner

**111 Appeal**—An appeal under sub-rule (1) of rule 8 of Part C of the Fourth Schedule shall be made in Form No 44 and shall be verified in the manner indicated therein and shall be accompanied by a fee of rupees one hundred

## PART XV

## MISCELLANEOUS

112 Search and seizure —(1) The powers of search and seizure under section 132 shall be exercised in accordance with sub-rules (2) to (10)

(2) The Commissioner may, for reasons recorded, issue a written order under his own signature and bearing his seal, specially authorising any Income tax Officer, subordinate to him, to enter any building, or place, to be specified therein where he has reason to believe that books of accounts or other documents which, in his opinion, will be relevant to or useful for any proceedings under the Act may be found. Such order may authorise the Income-tax Officer to do all or any of the following acts, namely —

- (a) to enter the said building or place with such assistance of police officers as may be required,
- (b) to search the same and to place identification marks on such books of account or other documents found therein as, in his opinion, will be relevant to or useful for any proceedings under the Act and to make a list of such books or documents with particulars of the identification marks thereon,
- (c) to examine such books or documents to make, or cause to be made, copies of or extracts from such books or documents,
- (d) to take possession of or seize any such books or documents,
- (e) to make a note or an inventory of any articles or things found in the course of such search which, in his opinion, will be useful for or relevant to any proceedings under the Act,
- (f) to convey such books or documents to the office of the Income tax Officer or any other authority not below the rank of an Income-tax Officer employed in the execution of the Act

(3) Whenever any building or place authorised to be searched is closed, any person residing in or being in charge of such building or place shall on demand by the Income tax Officer and on production of the authority, allow him free ingress thereto and afford all reasonable facilities for a search therein

(4) If ingress into such building or place cannot be so obtained it shall be lawful for the Income tax Officer executing the authority, with such assistance of police officers as may be required, to enter such building or place and search therein and in order to effect an entrance into such building or place, to break open any outer or inner door or window of any building, or place, whether that of the person to be searched or of any other person, if after notification of his authority and purpose and demand of admittance duly made, he cannot otherwise obtain admittance

Provided that, if any such building or place is an apartment in actual occupancy of a woman, who according to custom does not appear in public the Income-tax Officer shall, before entering such apartment, give notice to such woman that she is at liberty to withdraw and shall afford her every reasonable facility for withdrawing and may then break open the apartment and enter it

(5) Where any person in or about such building or place is reasonably suspected of concealing about his person any article for which search is being made, such person may also be searched by the Income-tax Officer with such assistance as he may consider necessary. If such person is a woman, the search shall be made by another woman with a strict regard to decency

(6) Before making a search, the Income tax Officer about to make it shall call upon two or more respectable inhabitants of the locality in which the building or place to be searched is situate to attend and witness the search and may issue an order in writing to them or any of them so to do Div 3  
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(7) The search shall be made in the presence of the witnesses aforesaid and a list of all things seized in the course of such search and of the places in which they were respectively found shall be prepared by the Income tax Officer and signed by such witnesses, but no person witnessing a search shall be required to attend as a witness of the search in any proceedings under the Act unless specially summoned

(8) The occupant of the building or place searched or some person in his behalf shall be permitted to attend during the search and a copy of the list prepared under sub-rule (7) shall be delivered to such occupant or person. A copy shall also be forwarded to the Commissioner

(9) When any person is searched under sub rule (5), a list of all things taken possession of shall be prepared and a copy thereof shall be delivered to such person. A copy shall also be forwarded to the Commissioner

(10) The order of the Commissioner referred to in sub-rule (2) shall be in Form No 45

**113 Disclosure of information regarding tax payable —**(1) The application to the Commissioner under section 138 for information as to the amount of tax determined as payable by an assessee in respect of any assessment made either under the Act or under the Indian Income-tax Act, 1922 (XI of 1922), on or after the 1st day of April, 1960, shall be made in Form No 46

(2) The information under section 138 shall be furnished by the Commissioner in Form No 47

(3) Where it is not possible for the Commissioner to furnish the information asked for by the applicant under section 138 owing to the fact that the relevant assessment has not been completed, he shall inform the applicant in Form No 48

(4) Where the Commissioner is satisfied that there are circumstances justifying the refusal of information as to the amount of tax determined as payable by an assessee in respect of any assessment year, he shall intimate the fact to the applicant in Form No 49

**114 Fees for application under section 138 —**(1) Every application made by a person under section 138 shall be accompanied by a fee of rupees ten for each assessment year for which information is requested for under that section

(2) Where the information is not furnished owing to the fact that the relevant assessment has not been completed or where the Commissioner refuses to furnish the information, he shall refund or cause to be refunded the amount of the fee paid

**115 Rate of exchange for income other than salaries payable out of India in sterling by or on behalf of Government —**The rates of exchange for the calculation of the value in rupees of any income, other than the income covered by rule 26, shall be as follows —

(i) 1 sh 6d = Re 1

(ii) US \$ 1 = Rs 4 762

**116 Return of interest paid —**(1) A return shall be furnished under section 285 by the person responsible for paying interest, not being interest on

securities, in respect of amounts of interest or aggregate interest exceeding Rs 400

(2) The return referred to in sub rule (1) shall be made in Form No 50

**117 Return of dividends paid**—(1) A return shall be furnished by the principal officer of a company under section 286 in respect of a dividend or aggregate dividends if the amount thereof exceeds one rupee in the case of a shareholder which is a company and in respect of a dividend or aggregate dividends if the amount thereof exceeds Rs 5,000 in the case of any other shareholder

(2) The return referred to in sub-rule (1) shall be made in Form No 51 and shall be delivered to the Income-tax Officer who assesses the company

**118 Levy of interest under section 220(2) where a recovery certificate is not issued**—(1) Subject to the provisions of rule 119 and sub-rule (2) of this rule, the Income-tax Officer shall calculate the interest payable under sub-section (2) of section 220 at the end of each financial year if the amount of tax, penalty or other sum in respect of which such interest is payable has not been paid in full before the end of any such financial year and a notice of demand under section 156 shall be issued accordingly

(2) Subject to the provisions of rule 119, if the amount of tax, penalty or other sum in respect of which such interest is payable is paid up before the end of any financial year, the Income-tax Officer shall calculate the interest payable under sub-section (2) of section 220 up to the date on which the payment of such tax, penalty or other sum is completed and a notice of demand under section 156 shall be issued accordingly

**119 Levy of interest under section 220(2) in a case where a recovery certificate is issued.**—(1) At the time of issuing a certificate under section 222, the Income-tax Officer shall calculate the interest payable under sub-section (2) of section 220 on the amount of arrears of tax, penalty or other sum up to the date of the issue of the certificate

(2) The amount of interest calculated under sub rule (1) as reduced by the amount of such interest, if any, paid by the assessee before the issue of the certificate shall be indicated in the certificate issued by the Income tax Officer

(3) The amount of interest referred to in sub-rule (2) and the further interest similarly calculated for the period commencing immediately after the date of the issue of the certificate, shall be recoverable from the defaulter along with the amount of tax, penalty or other sum mentioned in the certificate



## APPENDIX I

## PART I

[See rule 5]

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## Statement of rates at which depreciation is admissible

| Class of asset                                                                                                                                  | Rate<br>Number on the<br>basis of which the<br>percentage is to be<br>calculated on the<br>written down value<br>except where other<br>wise indicated in<br>the case of ocean<br>going steamers | Remarks                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|-------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1                                                                                                                                               | 2                                                                                                                                                                                               | 3                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <b>I BUILDINGS—</b>                                                                                                                             |                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| (1) First class substantial build-<br>ings of selected materials                                                                                | 2 5                                                                                                                                                                                             | Double these numbers will be<br>taken for factory buildings<br>excluding offices, godowns,<br>officers' and employees'<br>quarters                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| (2) Second class buildings of less<br>substantial construction                                                                                  | 5                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| (3) Third class buildings of con-<br>struction inferior to that of<br>second class buildings but not<br>including purely temporary<br>erections | 7 5                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| (4) Purely temporary erections<br>such as wooden structures                                                                                     |                                                                                                                                                                                                 | No rate is prescribed, renew-<br>als will be allowed as<br>revenue expenditure                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <b>II FURNITURE AND FITTINGS—</b>                                                                                                               |                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| (1) General                                                                                                                                     | 10                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| (2) Rate for furniture and fittings<br>used in hotels, cinema houses<br>and boarding houses                                                     | 15                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <b>III MACHINERY AND PLANT—</b>                                                                                                                 |                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| (1) <i>General rate</i>                                                                                                                         | 7                                                                                                                                                                                               | An extra allowance up to a<br>maximum of 50 per cent of<br>the normal allowance will<br>be allowed by the Income<br>tax Officer where a concern<br>claims such allowance on<br>account of double shift<br>working and satisfies the<br>Income tax Officer that the<br>concern has actually<br>worked double shift. The<br>calculations of the extra<br>allowance for double shift<br>shall be made separately<br>proportionate to the<br>number of days during<br>which there was double<br>shift working. For the<br>purpose of granting this<br>extra allowance the normal<br>number of working days<br>throughout the year will be<br>taken as 300 and if, for<br>example, a concern has |

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| Class of asset                                                                                                                                                                                                                                                                                                    | Rate<br>Number on the<br>basis of which the<br>percentage is to be<br>calculated on the<br>written down value<br>except where other-<br>wise indicated in<br>the case of ocean<br>going steamers | Remarks                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1                                                                                                                                                                                                                                                                                                                 | 2                                                                                                                                                                                                | 3                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <p>(ii) <i>Special rates to be applied to the whole of the machinery and plant used in the following concerns —</i></p> <p style="text-align: center;">A</p> <p>(1) Aerating gas factor es<br/>(2) Aluminium factories</p> <p style="text-align: center;">B</p> <p>(1) Battery manufacture<br/>(2) Bone mills</p> | <p style="text-align: center;">9</p> <p style="text-align: center;">10</p> <p style="text-align: center;">10</p> <p style="text-align: center;">9</p>                                            | <p>worked only double shift for 100 days, the extra allowance for double shift will be 1/3 of 50 per cent of the normal allowance for the whole year. This applies to all concerns whether the general rate or any special rate applies to them, but does not apply to an item of machinery or plant specifically excepted by the letters "N E S A" * being shown against it.</p> <p><i>Explanation —</i> For this purpose the normal allowance means the amount of depreciation allowance for the year calculated in accordance with Rule 5, but excluding the extra depreciation allowance for double shift working.</p> <p>The special rates specified hereinafter may be adopted at the option of the assessee for electrical machinery, air conditioning machinery, locomotives, rolling stock, tramways, and railways, weighing machines, calculating machines, type writers, Neo post Franking machines, accounting machines, other office machinery, refrigeration plant, containers, etc., and motor vehicles used in these concerns.</p> |

\* Letters N E S A are a contraction of the expression "No extra shift allowance"

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| Class of asset                                                                | Rate<br>Number on the<br>basis of which the<br>percentage is to be<br>calculated on the<br>written down value<br>except where other<br>wise indicated in<br>the case of ocean<br>going steamers | Remarks                                                                             |
|-------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------|
| 1                                                                             | 2                                                                                                                                                                                               | 3                                                                                   |
| (3) Brick and tile manu-<br>facture —                                         |                                                                                                                                                                                                 |                                                                                     |
| (a) Wooden shelves and<br>pallets                                             | 15                                                                                                                                                                                              |                                                                                     |
| (b) Other plant and<br>machinery                                              | 10                                                                                                                                                                                              |                                                                                     |
| <b>C</b>                                                                      |                                                                                                                                                                                                 |                                                                                     |
| (1) Calcium carbide—manu-<br>facture of                                       | 10                                                                                                                                                                                              |                                                                                     |
| (2) Cement works using<br>rotary kilns                                        | 10                                                                                                                                                                                              |                                                                                     |
| (3) Chemical works —                                                          |                                                                                                                                                                                                 |                                                                                     |
| (a) Machinery and plant<br>coming into contact<br>with corrosive<br>chemicals | 15                                                                                                                                                                                              |                                                                                     |
| (b) Other machinery and<br>plant like boilers,<br>filtration plant, etc       | 10                                                                                                                                                                                              |                                                                                     |
| (4) Coffee manufacturing<br>concerns                                          | 9                                                                                                                                                                                               |                                                                                     |
| (5) Coke manufacture                                                          | 10                                                                                                                                                                                              |                                                                                     |
| (6) Concrete pipes—manu-<br>facture of —                                      |                                                                                                                                                                                                 |                                                                                     |
| (a) Moulds (N E S A )                                                         | 25                                                                                                                                                                                              |                                                                                     |
| (b) Other machinery and<br>plant                                              | 10                                                                                                                                                                                              |                                                                                     |
| (7) Confectionery manu-<br>facture including biscuits<br>and pepper mints     | 10                                                                                                                                                                                              |                                                                                     |
| (8) Cycle manufacture works                                                   | 10                                                                                                                                                                                              |                                                                                     |
| <b>D</b>                                                                      |                                                                                                                                                                                                 |                                                                                     |
| (1) Distilleries                                                              | 9                                                                                                                                                                                               |                                                                                     |
| (2) Dyeing and bleaching<br>works                                             | 10                                                                                                                                                                                              |                                                                                     |
| <b>E</b>                                                                      |                                                                                                                                                                                                 |                                                                                     |
| Electrical engineering works                                                  | 10                                                                                                                                                                                              |                                                                                     |
| <b>F</b>                                                                      |                                                                                                                                                                                                 |                                                                                     |
| <i>Flour Mills</i> —                                                          |                                                                                                                                                                                                 |                                                                                     |
| (i) Rollers                                                                   | Nil                                                                                                                                                                                             | The cost of replacement of<br>the rollers will be allowed<br>as revenue expenditure |
| (ii) Other machinery and<br>plant                                             | 9                                                                                                                                                                                               |                                                                                     |

| Class of asset                                                                                                                                                                                                                                                                                                                                                                                                         | Rate<br>Number on the<br>basis of which the<br>percentage is to be<br>calculated on the<br>written down value<br>except where other<br>wise indicated in<br>the case of ocean<br>going steamers | Remarks                                                                                                        |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------|
| 1                                                                                                                                                                                                                                                                                                                                                                                                                      | 2                                                                                                                                                                                               | 3                                                                                                              |
| <p style="text-align: center;"><b>G</b></p> <p>Galvanizing works</p>                                                                                                                                                                                                                                                                                                                                                   | 10                                                                                                                                                                                              |                                                                                                                |
| <p style="text-align: center;"><b>H</b></p> <p>(1) Healds and reeds manu-<br/>facture (knitting, reed<br/>making, varnishing,<br/>doubling, winding and<br/>polishing machines)</p> <p>(2) Hydraulic presses</p>                                                                                                                                                                                                       | <p>10</p> <p>10</p>                                                                                                                                                                             |                                                                                                                |
| <p style="text-align: center;"><b>I</b></p> <p>(1) Ice factories</p> <p>(2) Internal combustion<br/>engines repairing works</p> <p>(3) <i>Iron and steel industry</i> —<br/>(a) Rolling mill rolls</p> <p>(b) Other machinery and<br/>plant, (blast furnace<br/>plant, steel making<br/>plant, steel rolling<br/>plant, forges, genera-<br/>tors, boilers and<br/>sheet mills)</p> <p>(4) Iron and brass foundries</p> | <p>9</p> <p>10</p> <p>Nil</p> <p>10</p> <p>10</p>                                                                                                                                               | <p>The cost of replacement of<br/>the rolling mill, rolls will be<br/>allowed as revenue expendi-<br/>ture</p> |
| <p style="text-align: center;"><b>L</b></p> <p>Lime works</p>                                                                                                                                                                                                                                                                                                                                                          | 10                                                                                                                                                                                              |                                                                                                                |
| <p style="text-align: center;"><b>M</b></p> <p>(1) <i>Match factories</i> —<br/>(a) Wooden match<br/>frames</p> <p>(b) Other machinery and<br/>plant</p> <p>(2) Motor car repairing works</p>                                                                                                                                                                                                                          | <p>Nil</p> <p>9</p> <p>10</p>                                                                                                                                                                   | <p>The cost of replacement of<br/>the frames will be allowed<br/>as a revenue expenditure</p>                  |
| <p style="text-align: center;"><b>O</b></p> <p>(1) Oil extraction factories</p> <p>(2) Optical instruments—<br/>manufacture of</p>                                                                                                                                                                                                                                                                                     | <p>10</p> <p>10</p>                                                                                                                                                                             |                                                                                                                |

| Class of asset                                                                                                                                                                                                                                               | Rate<br>Number on the<br>basis of which the<br>percentage is to be<br>calculated on the<br>written down value<br>except where other<br>wise indicated in<br>the case of ocean<br>going steamers | Remarks                                                                             |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------|
| 1                                                                                                                                                                                                                                                            | 2                                                                                                                                                                                               | 3                                                                                   |
| <b>P</b>                                                                                                                                                                                                                                                     |                                                                                                                                                                                                 |                                                                                     |
| (1) Paper mills                                                                                                                                                                                                                                              | 10                                                                                                                                                                                              |                                                                                     |
| (2) Patent stone works                                                                                                                                                                                                                                       | 10                                                                                                                                                                                              |                                                                                     |
| (3) Pottery and other clay<br>products — manufacture<br>of                                                                                                                                                                                                   | 10                                                                                                                                                                                              |                                                                                     |
| <b>R</b>                                                                                                                                                                                                                                                     |                                                                                                                                                                                                 |                                                                                     |
| (1) Rice mills                                                                                                                                                                                                                                               | 9                                                                                                                                                                                               |                                                                                     |
| (2) Rod mills                                                                                                                                                                                                                                                | 10                                                                                                                                                                                              |                                                                                     |
| (3) Rubber and plastic goods<br>factories —<br>(a) General machinery<br>and plant                                                                                                                                                                            | 12                                                                                                                                                                                              |                                                                                     |
| (b) Moulds (N E S A )                                                                                                                                                                                                                                        | 40                                                                                                                                                                                              |                                                                                     |
| <b>S</b>                                                                                                                                                                                                                                                     |                                                                                                                                                                                                 |                                                                                     |
| (1) Saw mills                                                                                                                                                                                                                                                | 10                                                                                                                                                                                              |                                                                                     |
| (2) Ship building and engi<br>neering works                                                                                                                                                                                                                  | 10                                                                                                                                                                                              |                                                                                     |
| (3) <i>Shoe and other leather<br/>goods factories—</i><br>(a) Wooden lasts used in<br>the manufacture of<br>shoes                                                                                                                                            | 25                                                                                                                                                                                              |                                                                                     |
| (b) Other machinery and<br>plant                                                                                                                                                                                                                             | 9                                                                                                                                                                                               |                                                                                     |
| (4) Silk manufacturing—<br>weaving machinery<br>worked by electric<br>motors, including wind<br>ing machines, twisting<br>frames, doubling machi<br>nes, pirn winding machi<br>nes, warping machines,<br>looms, stentering machi<br>nes and hydro extractors | 12                                                                                                                                                                                              |                                                                                     |
| (5) Soap and candle works                                                                                                                                                                                                                                    | 10                                                                                                                                                                                              |                                                                                     |
| (6) Starch factories                                                                                                                                                                                                                                         | 9                                                                                                                                                                                               |                                                                                     |
| (7) Straw board mills                                                                                                                                                                                                                                        | 10                                                                                                                                                                                              |                                                                                     |
| (8) Sugar works —<br>(a) Rollers                                                                                                                                                                                                                             | Nil                                                                                                                                                                                             | The cost of replacement of<br>the rollers will be allowed<br>as revenue expenditure |
| (b) Other machinery and<br>plant                                                                                                                                                                                                                             | 9                                                                                                                                                                                               |                                                                                     |

| Class of asset                                                    | Rate<br>Number on the<br>basis of which the<br>percentage is to be<br>calculated on the<br>written down value<br>except where other-<br>wise indicated in<br>the case of ocean<br>going steamers | Remarks                                                                                       |
|-------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------|
| 1                                                                 | 2                                                                                                                                                                                                | 3                                                                                             |
| T                                                                 |                                                                                                                                                                                                  |                                                                                               |
| (1) Tanneries                                                     | 10                                                                                                                                                                                               |                                                                                               |
| (2) Tea factories                                                 | 9                                                                                                                                                                                                |                                                                                               |
| (3) Telephone operating con-<br>cerns                             | 10                                                                                                                                                                                               |                                                                                               |
| (4) Tin and can making<br>works                                   | 10                                                                                                                                                                                               |                                                                                               |
| V                                                                 |                                                                                                                                                                                                  |                                                                                               |
| Vegetable ghee manufacture                                        | 10                                                                                                                                                                                               |                                                                                               |
| W                                                                 |                                                                                                                                                                                                  |                                                                                               |
| Wire and nail making mills                                        | 10                                                                                                                                                                                               |                                                                                               |
| (iii) Special rates to be applied to<br>other machinery and plant |                                                                                                                                                                                                  |                                                                                               |
| A                                                                 |                                                                                                                                                                                                  |                                                                                               |
| (1) Accounting machines<br>(N E S A )                             | 15                                                                                                                                                                                               | The cost of replacement of<br>the wooden parts will be<br>allowed as revenue expendi-<br>ture |
| (2) Aeroplanes (N E S A ) —                                       |                                                                                                                                                                                                  |                                                                                               |
| (a) Aircraft                                                      | 30                                                                                                                                                                                               |                                                                                               |
| (b) Aero engines                                                  | 40                                                                                                                                                                                               |                                                                                               |
| (c) Aerial photographic<br>apparatus                              | 25                                                                                                                                                                                               |                                                                                               |
| (3) Air compressors and<br>pneumatic machinery                    | 10                                                                                                                                                                                               |                                                                                               |
| (4) Air conditioning machi-<br>nery (N E S A )                    | 15                                                                                                                                                                                               |                                                                                               |
| (5) Artificial silk manu-<br>facturing machinery —                |                                                                                                                                                                                                  |                                                                                               |
| (i) Wooden parts                                                  | Nil                                                                                                                                                                                              |                                                                                               |
| (ii) Other machinery and<br>plant                                 | 15                                                                                                                                                                                               |                                                                                               |
| B                                                                 |                                                                                                                                                                                                  |                                                                                               |
| Building contractor s machi-<br>nery (N E S A )                   | 15                                                                                                                                                                                               |                                                                                               |
| C                                                                 |                                                                                                                                                                                                  |                                                                                               |
| (1) Calculating machines<br>(N E S A )                            | 15                                                                                                                                                                                               |                                                                                               |

| Class of asset                                                                                                                                                                                                                                                                                                                                                                                                 | Rate<br>Number on the<br>basis of which the<br>percentage is to be<br>calculated on the<br>written down value<br>except where other<br>wise indicated in<br>the case of ocean<br>going steamers | Remarks                                                          |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------|
| 1                                                                                                                                                                                                                                                                                                                                                                                                              | 2                                                                                                                                                                                               | 3                                                                |
| (2) Cinematograph films —<br>Machinery used in the<br>production and exhibi-<br>tion of cinematograph<br>films (N E S A ) —<br>(a) Recording equip-<br>ment, reproducing<br>equipment, develop-<br>ing machines, print-<br>ing machines, editing<br>machines, synchroni-<br>sers and studio lights<br>except bulbs<br>(b) Projecting equipment<br>of film exhibiting<br>concerns<br>(c) Bulbs of studio lights | 20<br><br>20<br>Nil                                                                                                                                                                             | Renewals of bulbs will be<br>allowed as revenue expendi-<br>ture |
| (3) Concrete pile driving<br>machines                                                                                                                                                                                                                                                                                                                                                                          | 12                                                                                                                                                                                              |                                                                  |
| (4) Cycles (N E S A )                                                                                                                                                                                                                                                                                                                                                                                          | 20                                                                                                                                                                                              |                                                                  |
| <b>E</b>                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                 |                                                                  |
| (1) Earth moving machinery<br>employed in heavy con-<br>struction works such as<br>dams, tunnels, canals,<br>etc (N E S A ) —<br>(a) Tractors<br>(b) Dumpers<br>(c) Motor Graders,<br>Tourapul Scrapers,<br>Excavators, Rooter,<br>Tournado Dozer                                                                                                                                                              | 25<br>20<br><br>15                                                                                                                                                                              |                                                                  |
| (2) Electric supply under<br>takings —<br>(a) Electric plant, machi-<br>nery boilers<br>(b) Hydro electric con-<br>cerns—hydraulic<br>works, pipelines and<br>sluices (N E S A )                                                                                                                                                                                                                               | 10<br><br>2 5                                                                                                                                                                                   |                                                                  |
| (3) Electrical machinery —<br>(a) Batteries<br>(b) Other electrical<br>machinery including<br>electrical generators<br>and motors (other<br>than tramway<br>motors)                                                                                                                                                                                                                                            | 20<br><br>10                                                                                                                                                                                    |                                                                  |

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| Class of asset                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Rate<br>Number on the<br>basis of which the<br>percentage is to be<br>calculated on the<br>written down value<br>except where other<br>wise indicated in<br>the case of ocean-<br>going steamers | Remarks                                                            |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------|
| 1                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | 2                                                                                                                                                                                                | 3                                                                  |
| (c) Switchgear and instruments, transformers and other stationary plant and wiring and fittings of electric light and fan installations (N E S A )<br>(d) Underground cables and wires (N E S A )<br>(e) Overhead cables and wires (N E S A )<br>(f) X Ray and electro therapeutic apparatus and accessories there to (N E S A )<br>(4) Electro plating and electro welding plant<br>(5) Embroidery machines (hand or automatic) and their accessories (N E S A ) | 10<br>7 5<br>5<br>20<br>10<br>15                                                                                                                                                                 |                                                                    |
| G<br>(1) Ginning and pressing machinery<br>(2) Glass manufacturing concerns except direct fire glass melting furnaces —<br>(a) Recuperative and regenerative glass melting furnaces<br>(b) Moulds (N E S A )<br>(c) Other plant and machinery including machinery for the manufacture of vacuum tubes and vacuum bulbs<br>(d) Direct fire glass melting furnaces                                                                                                  | 9<br>20<br>30<br>10<br>Nil                                                                                                                                                                       | Replacement of the furnaces will be allowed as revenue expenditure |
| L<br>Locomotives, rolling stock tramways and railways used by concerns excluding railway concerns (N E S A )                                                                                                                                                                                                                                                                                                                                                      | 10                                                                                                                                                                                               |                                                                    |



| Class of asset                                                  | Rate<br>Number on the<br>basis of which the<br>percentage is to be<br>calculated on the<br>written down value<br>except where other-<br>wise indicated in<br>the case of ocean<br>going steamers | Remarks                                                                  |
|-----------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------|
| 1                                                               | 2                                                                                                                                                                                                | 3                                                                        |
| <b>M</b>                                                        |                                                                                                                                                                                                  |                                                                          |
| (1) Machine tools —                                             |                                                                                                                                                                                                  |                                                                          |
| (a) Automatic and semi-automatic                                | 12                                                                                                                                                                                               |                                                                          |
| (b) Precision machine tools, e.g., grinding machines            | 12                                                                                                                                                                                               |                                                                          |
| (2) Mineral oil concerns (N E S A )                             |                                                                                                                                                                                                  |                                                                          |
| Refineries—                                                     |                                                                                                                                                                                                  |                                                                          |
| (a) Boilers                                                     | 10                                                                                                                                                                                               |                                                                          |
| (b) Prime movers                                                | 10                                                                                                                                                                                               |                                                                          |
| (c) Process plant                                               | 12                                                                                                                                                                                               |                                                                          |
| Field Operations—                                               |                                                                                                                                                                                                  |                                                                          |
| (a) Boilers                                                     | 10                                                                                                                                                                                               |                                                                          |
| (b) Prime movers                                                | 10                                                                                                                                                                                               |                                                                          |
| (c) Process plant                                               | 12                                                                                                                                                                                               |                                                                          |
| Except for the following items—                                 |                                                                                                                                                                                                  |                                                                          |
| (1) Below ground                                                | 100                                                                                                                                                                                              |                                                                          |
| (2) Above ground—                                               |                                                                                                                                                                                                  |                                                                          |
| (a) portable boilers, drilling tools, wellhead tanks, rigs, etc | 30                                                                                                                                                                                               |                                                                          |
| (b) Storage tanks                                               | 10                                                                                                                                                                                               |                                                                          |
| (c) Pipe lines—                                                 |                                                                                                                                                                                                  |                                                                          |
| (i) Fixed boilers                                               | 10                                                                                                                                                                                               |                                                                          |
| (ii) Prime movers                                               | 12                                                                                                                                                                                               |                                                                          |
| (iii) Pipe line                                                 | 10                                                                                                                                                                                               |                                                                          |
| (d) Distribution—                                               |                                                                                                                                                                                                  |                                                                          |
| (1) Returnable packages                                         | Nil                                                                                                                                                                                              | Cost of packages actually used up will be allowed as revenue expenditure |
| (2) Kerbside pumps including underground tanks and fittings     | 15                                                                                                                                                                                               |                                                                          |
| Jetties and dry docks —                                         |                                                                                                                                                                                                  |                                                                          |
| (a) Constructed entirely or mainly of steel                     | 7½                                                                                                                                                                                               |                                                                          |
| (b) Constructed entirely or mainly of wood                      | 12                                                                                                                                                                                               |                                                                          |
| (3) Mines and quarries (N E S A ) —                             |                                                                                                                                                                                                  |                                                                          |
| (a) Machinery—                                                  |                                                                                                                                                                                                  |                                                                          |
| (i) surface and underground machinery                           |                                                                                                                                                                                                  |                                                                          |

Cost of packages actually used up will be allowed as revenue expenditure

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| Class of asset                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Rate<br>Number on the<br>basis of which the<br>percentage is to be<br>calculated on the<br>written down value<br>except where other<br>wise indicated in<br>the case of ocean<br>going steamers | Remarks                                                                                                                                               |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1                                                                                                                                                                                                                                                                                                                                                                                                                                                               | 2                                                                                                                                                                                               | 3                                                                                                                                                     |
| (except electrical<br>machinery, head<br>gear, moving<br>parts and rails<br>(u) boilers and head<br>gears, excluding<br>moving parts)<br>(b) Coal tubs, winding<br>ropes, haulage ropes<br>and sand stowing<br>pipes<br>(c) Shafts and inclines<br>(d) Portable under<br>ground machinery<br>(e) Safety lamps<br><br>(f) Tramways on the<br>surface<br>(4) Motor buses, motor<br>lorries, motor taxies,<br>motor tractors (N E S A)<br>(5) Motor cars (N E S A) | 15<br><br>8<br><br>Nil<br>7<br>25<br>Nil<br><br>10<br><br>25<br>20                                                                                                                              | Renewals will be allowed as<br>revenue expenditure<br><br><br><br><br><br>Cost of lamps actually used<br>up will be allowed<br>as revenue expenditure |
| N<br><br>(1) Neo-post Franking ma-<br>chines (N E S A)<br>(2) Newspaper production<br>plant and machinery                                                                                                                                                                                                                                                                                                                                                       | 15<br><br>10                                                                                                                                                                                    |                                                                                                                                                       |
| O<br><br>Office machinery including<br>calculating machines, type<br>writers, Neo post Franking<br>machines, and accounting<br>machines (N E S A)                                                                                                                                                                                                                                                                                                               | 15                                                                                                                                                                                              |                                                                                                                                                       |
| R<br><br>(1) Railway sidings<br>(N E S A)<br>(2) Refrigeration plant con-<br>tainers, etc (other than<br>racks) (N E S A.)<br><br>(3) Road making plant and<br>machinery                                                                                                                                                                                                                                                                                        | 7<br><br>15<br><br>15                                                                                                                                                                           | General rate prescribed for<br>furniture and fittings shall<br>apply to racks                                                                         |

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| Class of asset                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Rate<br>Number on the<br>basis of which the<br>percentage is to be<br>calculated on the<br>written down value<br>except where other<br>wise indicated in<br>the case of ocean<br>going steamers | Remarks |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------|
| 1                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | 2                                                                                                                                                                                               | 3       |
| (4) Ropeway structures<br>(N E S A ) —<br>(a) Trestle and station<br>steel work<br>(b) Driving and tension<br>gearing<br>(c) Carriers<br>(d) Ropeways ropes and<br>trestle sheaves and<br>connected parts                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | 6<br><br>10<br>12<br><br>30                                                                                                                                                                     |         |
| <b>S</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                 |         |
| (1) Salt works —<br>(a) Machinery, plant,<br>locomotives, wagons<br>and rolling stock<br>(b) Barges and floating<br>plant (N E S A )<br>(c) General plant and<br>machinery used in<br>engineering shops<br>(d) Reservoirs, con-<br>densers, salt pans,<br>delivery channels and<br>piers, if constructed<br>of masonry, concrete,<br>cement, asphalt or<br>similar materials<br>(N E S A )<br>NOTE —Repairs to<br>similar works made<br>of earth will be<br>allowed as revenue<br>expenditure<br>(e) Piers, quays and<br>jetties constructed<br>entirely or mainly of<br>steel (N E S A )<br>(f) Piers, quays and<br>jetties constructed<br>entirely or mainly of<br>wood (N E S A )<br>(g) Pipe lines for convey-<br>ing brine if construct-<br>ed of masonry, con-<br>crete, cement, asphalt<br>or similar materials<br>(N E S A )<br>(h) Salt pans, reservoirs<br>and condensers, etc . | 15<br>10<br>10<br><br>6<br><br>7 5<br>12<br>12                                                                                                                                                  |         |

| Class of asset                                                                                     | Rate<br>Number on the<br>basis of which the<br>percentage is to be<br>calculated on the<br>written down value<br>except where other-<br>wise indicated in<br>the case of ocean-<br>going steamers | Remarks                                                   |
|----------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------|
| 1                                                                                                  | 2                                                                                                                                                                                                 | 3                                                         |
| made of impervious<br>clay                                                                         | Nil                                                                                                                                                                                               | Renewals will be allowed as<br>revenue expenditure        |
| (2) Sewing and knitting<br>machines employed in the<br>manufacture of hosiery<br>and woollen goods | 15                                                                                                                                                                                                |                                                           |
| (3) Sewing and stitching<br>machines for canvas<br>or leather                                      | 15                                                                                                                                                                                                |                                                           |
| (4) Ships (N E S A) —<br>(a) Ocean—<br>(i) Steamers and<br>motor vessels                           | 5                                                                                                                                                                                                 | The allowance is to be calcu-<br>lated on the actual cost |
| (ii) Sail or tug                                                                                   | 4                                                                                                                                                                                                 |                                                           |
| (b) Inland—<br>(i) Steamers and<br>motor vessels                                                   | 10                                                                                                                                                                                                |                                                           |
| (ii) Tug boats                                                                                     | 12 5                                                                                                                                                                                              |                                                           |
| (iii) Iron or steel flats<br>for cargo                                                             | 10                                                                                                                                                                                                |                                                           |
| (iv) Wooden cargo<br>boats up to 50<br>tons capacity                                               | 10                                                                                                                                                                                                |                                                           |
| (v) Wooden cargo<br>boats over 50<br>tons capacity -                                               | 10                                                                                                                                                                                                |                                                           |
| (vi) Motor launches                                                                                | 12 5                                                                                                                                                                                              |                                                           |
| * (vii) Speed boats                                                                                | 20                                                                                                                                                                                                |                                                           |
| (5) (a) Sugar cane crushers<br>—indigenous (kohlus<br>and belans) (N E S A)                        | 18                                                                                                                                                                                                |                                                           |
| (b) Juice boiling pans<br>(karhais) (N E S A)                                                      | 18                                                                                                                                                                                                |                                                           |
| (6) Surgical instruments<br>(N E S A)                                                              | 15                                                                                                                                                                                                |                                                           |
| T                                                                                                  |                                                                                                                                                                                                   |                                                           |
| (1) Textile machinery ex-<br>cluding silk manufactur-<br>ing machinery —<br>(a) Cotton             | 10                                                                                                                                                                                                |                                                           |
| (b) Jute excluding gene-<br>rating plant                                                           | 9                                                                                                                                                                                                 |                                                           |
| (c) Woollen and worsted                                                                            | 10                                                                                                                                                                                                |                                                           |
| (d) Carpet                                                                                         | 10                                                                                                                                                                                                |                                                           |

\* "Speed Boat" means a motor driven boat by a high speed internal combustion engine capable of propelling the boat at a speed exceeding 15 miles per hour in still water and so designed that when running at a speed it will plane, i.e., its bow will rise from the water

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| Class of asset                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Rate<br>Number on the<br>basis of which the<br>percentage is to be<br>calculated on the<br>written down value<br>except where other<br>wise indicated in<br>the case of ocean<br>going steamers | Remarks                                                                                                |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------|
| 1                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | 2                                                                                                                                                                                               | 3                                                                                                      |
| <p>(2) <i>Tramways—</i></p> <p>A <i>Electric Tramways—</i></p> <p>(a) Permanent way<br/>(N E S A )—</p> <p>(i) Not exceed<br/>ing 50,000<br/>car miles per<br/>mile of track<br/>per annum</p> <p>(ii) Exceeding<br/>50,000 and<br/>not exceed<br/>ing 75,000<br/>car miles per<br/>mile of track<br/>per annum</p> <p>(iii) Exceeding<br/>75,000 and<br/>not exceed<br/>ing 1,25,000<br/>car miles per<br/>mile of track<br/>per annum</p> <p>(iv) Exceeding<br/>1,25,000 car<br/>miles per<br/>mile of track<br/>per annum</p> <p>(b) Cars—car trucks,<br/>car bodies, elec<br/>trical equipment<br/>and motors<br/>(N E S A )</p> <p>(c) General plant,<br/>machinery and<br/>tools</p> <p>B <i>Tramways run by<br/>internal combustion<br/>engines (N E S A ) —</i></p> <p>(a) Permanent way</p> <p>(b) Tramears includ<br/>ing engines and<br/>gears</p> <p>(3) Tube well boring plant</p> <p>(4) Typewriters (N E S A )</p> <p><b>W</b></p> <p>(1) Weighing machines<br/>(N E S A )</p> | <p>9</p> <p>10</p> <p>12</p> <p>15</p> <p>10</p> <p>9</p> <p>10</p> <p>12</p> <p>15</p> <p>12</p>                                                                                               | <p>The same numbers as have<br/>been prescribed for the<br/>permanent way of electric<br/>tramways</p> |

| Class of asset                                                                        | Rate<br>Number on the<br>basis of which the<br>percentage is to be<br>calculated on the<br>written down value<br>except where other<br>wise indicated in<br>the case of ocean<br>going steamers | Remarks |
|---------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------|
| 1                                                                                     | 2                                                                                                                                                                                               | 3       |
| (2) Wireless apparatus and<br>gear, wireless appliances<br>and accessories (N E S A ) | 15                                                                                                                                                                                              |         |
| (3) Works instruments                                                                 | 12                                                                                                                                                                                              |         |
| <b>Z</b>                                                                              |                                                                                                                                                                                                 |         |
| (1) Zipfasteners manufactur<br>ing machinery                                          | 10                                                                                                                                                                                              |         |

## APPENDIX I

## PART II

[See rule 5]

Expectation of life in the case of a steamer or motor vessel purchased second-hand

| Age at date of purchase |             | Expectation of life                                  |
|-------------------------|-------------|------------------------------------------------------|
| Over years              | Under years | Years                                                |
| 0                       | 1           | 20                                                   |
| 1                       | 2           | 19                                                   |
| 2                       | 3           | 18                                                   |
| 3                       | 4           | 17                                                   |
| 4                       | 5           | 16                                                   |
| 5                       | 6           | 15                                                   |
| 6                       | 7           | 14                                                   |
| 7                       | 8           | 13                                                   |
| 8                       | 9           | 12                                                   |
| 9                       | 10          | 11                                                   |
| 10                      | 11          | 10                                                   |
| 11                      | 12          | 9                                                    |
| 12                      | 13          | 9                                                    |
| 13                      | 14          | 8                                                    |
| 14                      | 15          | 8                                                    |
| 15                      | 16          | 7                                                    |
| 16                      | 17          | 7                                                    |
| 17                      | 18          | 7                                                    |
| 18                      | 19          | 6                                                    |
| 19                      | 20          | 6                                                    |
| 20                      | 21          | 5                                                    |
| 21                      | 22          | 5                                                    |
| 22                      | 23          | 4                                                    |
| 23                      | 24          | 4                                                    |
| Over 24 years           |             | Determined by the Board<br>on the facts of each case |

## APPENDIX II

## FORM No 1

[See rule 12(1)]

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Form 1

Return of income under sub section (1) or sub section (2) or sub section (3)  
of section 139 of the Income-tax Act, 1961, for COMPANIES only

Assessment year 19 —19

Name of the company

Address

## PART I

\*Statement of total income and total world income during the previous year(s)  
ended

| **Source of income<br>1                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | †Amount<br>of incomes<br>2 | †Amount<br>of losses<br>3 | Tax already<br>deducted at<br>source<br>4 |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|---------------------------|-------------------------------------------|
| SECTION A — <i>Income which accrued or arose or was received or is deemed to have accrued or arisen or have been received in India in the previous year</i>                                                                                                                                                                                                                                                                                                                                                             |                            |                           |                                           |
| 1 INTEREST ON SECURITIES<br>(i) interest on securities of the Central Government issued income tax free<br>(ii) interest on securities of a State Government issued income tax free<br>(iii) interest on other securities                                                                                                                                                                                                                                                                                               |                            |                           |                                           |
| 2 HOUSE PROPERTY<br>Total amount as detailed in Part V of the return                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                            |                           |                                           |
| 3 BUSINESS OR PROFESSION<br>(a) Profits and gains as detailed in Part VI of the return<br>(i) Speculation business—section 28, Explanation 2<br>(ii) Other business or profession<br>‡(b) Share of profits in a registered firm<br>(i) Speculation business—section 28, Explanation 2<br>(ii) Other business or profession<br>‡(c) Share of profits in an unregistered firm or association of persons or body of individuals<br>(i) Speculation business—section 28, Explanation 2<br>(ii) Other business or profession |                            |                           |                                           |
| 4 CAPITAL GAINS<br>Capital gains as detailed in Part VIII                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                            |                           |                                           |
| 5 OTHER SOURCES<br>†† Dividends from companies<br>Interest other than interest on securities<br>Ground rent<br>Other items (give details)                                                                                                                                                                                                                                                                                                                                                                               |                            |                           |                                           |
| TOTAL OF SECTION A                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                            |                           |                                           |

# PART IV

## Interest on securities

[See sections 18—21 of the Income-tax Act, 1961]

| Not to be filled in the case of a banking company          |                                                                                                                          | To be filled in the case of a banking company                  |                                                                                                               | Not amount of interest on securities carried to Part I of the return                                                      |                                                                                                                                                                         |                                                                                                                                                           |                                                                                                                                                       |                                                                                                                                                                         |                                  |                                  |                                |                                  |           |                                  |           |                                  |           |                                  |  |
|------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------|----------------------------------|--------------------------------|----------------------------------|-----------|----------------------------------|-----------|----------------------------------|-----------|----------------------------------|--|
| Gross amount of interest due on securities during the year | Face value of the securities in respect of which the amount of interest shown in columns 1 and 2 was due during the year | Amount of tax deducted at source on interest shown on column 2 | Amount of expenses incurred by the company for the purpose of realising the interest shown in columns 1 and 2 | Amount of any interest payable on money borrowed for the purpose of investment on securities mentioned in columns 3 and 4 | Aggregate of the expenses of the company as are admissible under sections 30, 31, 36 and 37 other than under clauses (iii), (vi), (vii) of section 36(1) (give details) | Amount apportionable as sum reasonably expended by the company for the purposes of realising the interest shown in columns 1 and 2 (see section 20(1)(f)) | Total amount of interest on moneys borrowed for the purposes of the bank or business or for investment in securities (including interest on deposits) | Amount of interest in column 13 apportionable as interest payable by the company on money borrowed for the purposes of investment in securities (see section 20(1)(ii)) | In the case of a banking company |                                  | In the case of other companies |                                  |           |                                  |           |                                  |           |                                  |  |
|                                                            |                                                                                                                          |                                                                |                                                                                                               |                                                                                                                           |                                                                                                                                                                         |                                                                                                                                                           |                                                                                                                                                       |                                                                                                                                                                         | 1                                | 2                                | 3                              | 4                                | 5         | 6                                | 7         | 8                                | 9         | 10                               |  |
| 1                                                          | 2                                                                                                                        | 3                                                              | 4                                                                                                             | 5                                                                                                                         | 6                                                                                                                                                                       | 7                                                                                                                                                         | 8                                                                                                                                                     | 9                                                                                                                                                                       | 10                               | 11                               | 12                             | 13                               | 14        | 15                               | 16        | 17                               | 18        | 19                               |  |
| Tax free                                                   | Tax free                                                                                                                 | Tax free                                                       | Tax free                                                                                                      | Tax free sec                                                                                                              | Tax free                                                                                                                                                                | Tax free                                                                                                                                                  | Tax free                                                                                                                                              | Tax free                                                                                                                                                                | Tax free                         | Tax free                         | Tax free                       | Tax free                         | Tax free  | Tax free                         | Tax free  | Tax free                         | Tax free  | Tax free                         |  |
| Others                                                     | Others                                                                                                                   | Others                                                         | Others                                                                                                        | Other sec                                                                                                                 | Other sec                                                                                                                                                               | Other sec                                                                                                                                                 | Other sec                                                                                                                                             | Other sec                                                                                                                                                               | Other sec                        | Other sec                        | Other sec                      | Other sec                        | Other sec | Other sec                        | Other sec | Other sec                        | Other sec | Other sec                        |  |
| For interest on                                            |                                                                                                                          | For interest on                                                |                                                                                                               | For interest on                                                                                                           |                                                                                                                                                                         | For interest on                                                                                                                                           |                                                                                                                                                       | For interest on                                                                                                                                                         |                                  | For interest on                  |                                | For interest on                  |           | For interest on                  |           | For interest on                  |           | For interest on                  |  |
| Tax free                                                   |                                                                                                                          | Tax free                                                       |                                                                                                               | Tax free                                                                                                                  |                                                                                                                                                                         | Tax free                                                                                                                                                  |                                                                                                                                                       | Tax free                                                                                                                                                                |                                  | Tax free                         |                                | Tax free                         |           | Tax free                         |           | Tax free                         |           | Tax free                         |  |
| Other sec                                                  |                                                                                                                          | Other sec                                                      |                                                                                                               | Other sec                                                                                                                 |                                                                                                                                                                         | Other sec                                                                                                                                                 |                                                                                                                                                       | Other sec                                                                                                                                                               |                                  | Other sec                        |                                | Other sec                        |           | Other sec                        |           | Other sec                        |           | Other sec                        |  |
| col 1—minus—(col 11 plus col 14)                           |                                                                                                                          | col 1—minus—(col 11 plus col 14)                               |                                                                                                               | col 1—minus—(col 11 plus col 14)                                                                                          |                                                                                                                                                                         | col 1—minus—(col 11 plus col 14)                                                                                                                          |                                                                                                                                                       | col 1—minus—(col 11 plus col 14)                                                                                                                                        |                                  | col 1—minus—(col 11 plus col 14) |                                | col 1—minus—(col 11 plus col 14) |           | col 1—minus—(col 11 plus col 14) |           | col 1—minus—(col 11 plus col 14) |           | col 1—minus—(col 11 plus col 14) |  |
| col 2—minus—(col 7 plus col 9)                             |                                                                                                                          | col 2—minus—(col 7 plus col 9)                                 |                                                                                                               | col 2—minus—(col 7 plus col 9)                                                                                            |                                                                                                                                                                         | col 2—minus—(col 7 plus col 9)                                                                                                                            |                                                                                                                                                       | col 2—minus—(col 7 plus col 9)                                                                                                                                          |                                  | col 2—minus—(col 7 plus col 9)   |                                | col 2—minus—(col 7 plus col 9)   |           | col 2—minus—(col 7 plus col 9)   |           | col 2—minus—(col 7 plus col 9)   |           | col 2—minus—(col 7 plus col 9)   |  |

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App II  
Form 1



## Income from house property

| Serial No | Name of village or town where the property is situated | Name of street and number of property | When the property is situated in a municipality, the name of the person in whose name the property stands in the municipal registers | Whether the property is occupied wholly or partly by the owner or let | If you are a part-owner of the property, state the amount of your share and the names of the other part owners and their shares | * Annual municipal valuation of the property | * Full annual rent payable by the tenant if the property is let, including owner's burden borne by the tenant | † Deduct—Tenant's liabilities relating to taxes levied by a local authority but borne by the owner and claimed as a deduction | Deduct—In case of property occupied by the owner for his own residence, (i) half of the net amount after deducting the amount in col 9 from the amount in col 7 or, as the case may be, col 8, or (ii) Rs 1800, whichever is less | ‡ Deduct—Sum admissible in respect of newly constructed buildings, vide second proviso to section 23(1) | Net amount after deducting amounts shown in cols 9, 10 and 11 from the amount shown in col 7 or col 8, as the case may be | § Allowance for repairs | Premium paid to insure the property against damage or destruction | Interest on mortgage or capital charge or any annual charge on the property or interest on capital borrowed for acquiring, constructing, repairing, renewing or reconstructing the property | Ground rent paid for the property | Land revenue paid for the property | Collection charges paid (not to exceed 6% of the amount shown in col 12) | Amount claimed on account of property remaining vacant (give details) | Unrealised rent (details to be given separately) | Total of columns 13 to 20 | Net income from property carried to Part I of the return (col 12 minus col 21) |
|-----------|--------------------------------------------------------|---------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------|---------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------|-------------------------|-------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------|------------------------------------|--------------------------------------------------------------------------|-----------------------------------------------------------------------|--------------------------------------------------|---------------------------|--------------------------------------------------------------------------------|
| 1         | 2                                                      | 3                                     | 4                                                                                                                                    | 5                                                                     | 6                                                                                                                               | 7                                            | 8                                                                                                             | 9                                                                                                                             | 10                                                                                                                                                                                                                                | 11                                                                                                      | 12                                                                                                                        | 13                      | 14                                                                | 15                                                                                                                                                                                          | 16                                | 17                                 | 18                                                                       | 19                                                                    | 20                                               | 21                        | 22                                                                             |

Notes.—\* The higher of the figures given in columns 7 and 8 should be taken as the basis of determining the income from property.

† In the case of house property the construction of which was completed on or after the 1st April, 1950, the claim is to be restricted to one half of the total amount of such taxes levied by the local authority.

‡ In the case of a building (comprising one or more residential units) the erection of which is begun and completed after the 1st day of April, 1961, the annual value for a period of three years from the date of completion of the building shall be reduced by a sum equal to the aggregate of (i) in respect of the unit whose value does not exceed Rs 600 the amount of such annual value and (ii) in respect of any residential unit whose annual value exceeds Rs 600 an amount of Rs 600 so however that the income in respect of any residential unit is in no case a negative figure.

§ The amount admissible on account of repairs is—

- (a) where the owner has undertaken to bear the cost of the repairs a sum equal to 1/6 of the amount shown in column 12 and
- (b) where the tenant has undertaken to bear the cost of repairs the excess of the amount shown in column 12 over the amount of rent payable or 1/6 of the amount

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II  
m 1

| *Profit or loss as per profit and loss account (or statement corresponding to the profit and loss account) for the previous year ended                                                                                                                                      | Speculation business<br>Rs<br>Profit+<br>Loss— | Other business or profession<br>Rs<br>Profit+<br>Loss— |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------|--------------------------------------------------------|
| Any other expenditure not incurred wholly and exclusively for the purpose of the business or profession (give details)                                                                                                                                                      |                                                |                                                        |
| Any other expenditure which is not allowable under the provisions of sections 28 to 44 (give details)                                                                                                                                                                       |                                                |                                                        |
| Deduct—                                                                                                                                                                                                                                                                     |                                                |                                                        |
| Any profit or gain, capital sums or other items credited in arriving at the above figure of profit which are not taxable under the head "Profits and gains of business or profession" or which have already been charged to tax in the hands of the assessee (give details) |                                                |                                                        |
| Expenses and allowances referred to in section 40(c) which the company claims as reasonable deduction under sections 30 to 38 having regard to the provisions of section 40(c) (details to be furnished in Part VI A)                                                       |                                                |                                                        |
| Depreciation as shown in Part VII A of this return                                                                                                                                                                                                                          |                                                |                                                        |
| Scientific research expenditure (if not charged in arriving at the above figure of profit)                                                                                                                                                                                  |                                                |                                                        |
| (i) Any expenditure (not in the nature of capital expenditure) laid out or expended on scientific research related to the business (give details)                                                                                                                           |                                                |                                                        |
| (ii) Any sum paid to an approved scientific research association having as its object the undertaking of scientific research or to an approved university, college or other institution to be used for scientific research (give details)                                   |                                                |                                                        |
| (iii) Any sum paid to an approved university, college or other institution to be used for research in social science or statistical research related to the class of business carried on (give details)                                                                     |                                                |                                                        |
| (iv) The appropriate part of expenditure of a capital nature on scientific research related to the business admissible under section 35(2) (give details)                                                                                                                   |                                                |                                                        |
| Any other allowable expenses which have not been charged in arriving at the above figure of profit (give details)                                                                                                                                                           |                                                |                                                        |
| †Development rebate allowable                                                                                                                                                                                                                                               |                                                |                                                        |
| *Net profit (or loss) carried to Part I of the return<br>Profit +<br>Loss —                                                                                                                                                                                                 |                                                |                                                        |

N.B.—The above particulars should be given for each separate and distinct business  
Delete the inappropriate words

\*Profits should be prefixed by the symbol + and loss by the symbol —  
†The amount allowable is restricted to such part of the amount shown in Part VII B as is sufficient to reduce to nil the total income as computed before making any allowance on account of development rebate. The remaining amount, if any, is to be carried forward to subsequent assessment years—section 33

## PART VI-A

Particulars of expenditure which has resulted directly or indirectly in the provision of any remuneration or benefit or amenity to directors and other persons having a substantial interest in the company or relatives of the directors or such persons and particulars of allowances claimed under the Act in respect of the company's assets used by the persons referred to above wholly or partly for their own purposes or benefit

[See section 40 (c)]

[illegible]

# PART VII A DEPRECIATION

Statement of particulars prescribed under section 34(1) of the Income tax Act, 1961, and of the amount of depreciation

| Description of buildings, machinery, plant or furniture | *Written down value as at the beginning of the accounting period | Capital expenditure during the year for additions, alterations, improvements and extensions | Date from which the additions, etc. referred to in col (3) are used for the purposes of the business or profession | If a building, machinery, plant or furniture has been sold or discarded, demolished or destroyed during the year, show in this column the *written down value as at the beginning of the accounting period and the amount payable in respect thereof and the scrap value, if any | Amount on which depreciation is allowable | Prescribed rate per cent | No of days for which the asset worked more shifts | Depreciation claimed |        |                       |       |
|---------------------------------------------------------|------------------------------------------------------------------|---------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------|--------------------------|---------------------------------------------------|----------------------|--------|-----------------------|-------|
|                                                         |                                                                  |                                                                                             |                                                                                                                    |                                                                                                                                                                                                                                                                                  |                                           |                          |                                                   | †Initial             | Normal | Extra shift allowance | Total |
|                                                         |                                                                  |                                                                                             |                                                                                                                    |                                                                                                                                                                                                                                                                                  |                                           |                          |                                                   | Rs                   | Rs     | Rs                    | Rs    |
| 1                                                       | 2                                                                | 3                                                                                           | 4                                                                                                                  | 5                                                                                                                                                                                                                                                                                | 6                                         | 7                        | 8                                                 | 9                    | 10     | 11                    | 12    |

Notes:—\*In the case of ocean going ships, particulars of "actual cost" instead of those of the "written down value" should be furnished

†Mon 34 payable includes the sale price or any insurance, salvage or compensation money

‡Initial depreciation is admissible in respect of only the buildings of the type referred to in section 32(1)(c)

PART VII-B  
DEVELOPMENT REBATE UNDER SECTIONS 33 AND 34  
Statement of particulars prescribed for the purposes of sections 33 and 34 of the Income tax Act, 1961, and of the amount of development rebate

| Description of new machinery or plant installed<br>1 | Actual cost of new machinery or plant installed<br>2 | Date of installation<br>3 | Rate per cent<br>4 | Amount of rebate<br>5 | Amount of development rebate reserve created [section 34(3)(a)]<br>6 | Remarks<br>7 |
|------------------------------------------------------|------------------------------------------------------|---------------------------|--------------------|-----------------------|----------------------------------------------------------------------|--------------|
|                                                      |                                                      |                           |                    |                       |                                                                      |              |

**PART VIII**  
**Particulars of capital gains**  
**Statement A**

| Sl No | Description of asset                                              | Date on which asset became property of the assessee | Date of the transfer | Full value of the consideration for which the transfer was made | Deductions                                                                                                                              |                                              |                                                                                            |                                                                                         | Amount of capital gains (col 5 minus col 9) If amount is a loss (col 9 minus col 5) enter the figure in red ink and show it distinctly as loss |
|-------|-------------------------------------------------------------------|-----------------------------------------------------|----------------------|-----------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------|--------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------|
|       |                                                                   |                                                     |                      |                                                                 | Cost of acquisition or, in cases applicable, the value which should be deemed to be the cost of acquisition (see col 12 of Statement B) | Cost of any improvement to the capital asset | Expenditure incurred wholly and exclusively in connection with the transfer (give details) | Total of cost of acquisition and other deductions admissible (Total of cols 6, 7 and 8) |                                                                                                                                                |
| 1     | 2                                                                 | 3                                                   | 4                    | 5                                                               | 6                                                                                                                                       | 7                                            | 8                                                                                          | 9                                                                                       | 10                                                                                                                                             |
|       |                                                                   |                                                     |                      | Rs                                                              | Rs                                                                                                                                      | Rs                                           | Rs                                                                                         | Rs                                                                                      | Rs                                                                                                                                             |
| 1     | House properties (with description regarding size, locality, etc) |                                                     |                      |                                                                 |                                                                                                                                         |                                              |                                                                                            |                                                                                         |                                                                                                                                                |
| 2     | Other assets (with description regarding nature of properties)    |                                                     |                      |                                                                 |                                                                                                                                         |                                              |                                                                                            |                                                                                         |                                                                                                                                                |

Not capital gains/loss Rs

Deduct

Exemptions claimed

(a) Capital gains from house property exempted u/s 53

(b) Capital gains from house property re invested in new house property exempt u/s 54

Not capital gains/loss transferred to item 4 in Sec A of Part I of this return

Rs



I declare that to the best of my knowledge and belief the information given in the above statement in Parts I, II, III, IV, V, VI, VI-A, VII-A, VII-B and VIII of this return is correct and complete, that the amount of total income and total world income and other particulars shown are truly stated and relate to all the previous year(s) relevant to the assessment year commencing on the 1st day of April, 19 , and that no other income accrued or arose to or was received by the company during the said previous year(s) and that the company had during the said previous year(s) no other sources of income

I further declare that the company was  $\frac{\text{resident}}{\text{non resident}}$  in India during the previous year(s) for which the return is made

Date

Signature

Address

\*Status

NOTE —\*The declaration shall be signed by the principal officer of the company

THE SIGNATORY SHOULD SATISFY HIMSELF THAT THE RETURN IS CORRECT AND COMPLETE IN EVERY RESPECT BEFORE SIGNING THE VERIFICATION

## ANNEXURE I

[See Part I, Section D]

### *Computation of total income*

Total income is to be computed by making the following adjustments (wherever applicable) to the particulars of income shown in Sections A and B of Part I of the return, namely —

- (i) Adjustment for the amount of development rebate carried forward from earlier assessment years ,
- (ii) Set off of loss from one source of income against income from another source within the same head of income—sections 70, 73(1), 75, 76, 77 Loss from a speculation business shall not be set off except against profits from another speculation business—section 73(1) ,
- (iii) Set-off of loss from one head against income from another head—sections 71, 73(1), 75M, 76 and 77 In this connection please also mention whether you wish to exercise the option given under the proviso to section 71 Loss under the head "Capital gains" shall not be set off against income under any other head—section 71 ,
- (iv) Set off of losses carried forward from earlier assessment years—sections 72, 73(2), 74, 75, 76, 77, 78 and 79 Loss from a speculation business or loss under the head "Capital gains" carried forward from an earlier assessment year can be set off only against income from speculation business or income under the head "Capital gains" as the case may be—sections 73(2) and 74 ,
- (v) Adjustment for unabsorbed allowance on account of depreciation or capital expenditure on scientific research carried forward from



earlier assessment year—sections 32(2) and 35(4) read with sections 72(2) and 73(3) Div 3  
App II  
Form I

Details of the adjustments should be indicated in a statement which should be appended to this return

**Return of particulars to be furnished under section 133 of the Income tax Act, 1961**

[See paragraph 4 of notice under section 139(2)]

(a) To be filled up by trustees, guardians or agents only

| Names and addresses of persons for or of whom the assessee is the trustee, guardian or agent |         | Whether trustee, guardian or agent |
|----------------------------------------------------------------------------------------------|---------|------------------------------------|
| Name                                                                                         | Address |                                    |
|                                                                                              |         |                                    |
|                                                                                              |         |                                    |
|                                                                                              |         |                                    |

*Date*

*Signature*

*Designation*

*Address*

(b) Statement of the names and addresses of all persons to whom assessee has paid in the previous year(s) rent, interest, commission, royalty or brokerage or any annuity (not being an annuity taxable under the head "Salaries") amounting to more than four hundred rupees and particulars of all such payments

| Serial No | Name and address of the person to whom the payment was made | Nature of payment | Amount paid | Date of payment | Whether paid in cash or by book adjustment |
|-----------|-------------------------------------------------------------|-------------------|-------------|-----------------|--------------------------------------------|
| 1         |                                                             |                   |             |                 |                                            |
| 2         |                                                             |                   |             |                 |                                            |
| 3         |                                                             |                   |             |                 |                                            |

*Date*

*Signature*

*Address*

(c) (To be filled in by any dealer, broker, or agent or any person concerned in the management of a stock or commodity exchange)

Statement of the names and addresses of all persons to whom the assessee or the exchange has paid in the previous year(s) ,

- (1) any sum or aggregate sums in excess of two thousand rupees where the payment represents "differences" paid in settlement of contracts without actual delivery of stocks or commodities, and
- (2) any sum or aggregate sums in excess of ten thousand rupees where the payment represents sale price in connection with the transfer whether by way of sale, exchange or otherwise of assets or on whose behalf or from whom the assessee or the exchange has received any such sum and particulars of all such payments and receipts

(The question whether any payments or receipts relate to "capital assets" is a matter to be decided by the Income-tax Officer. The person required to make the statements should treat all payments and receipts as pertaining to capital assets.)

(Separate statements should be made for payments and receipts.)

| Serial No | Name and address of the persons to whom the payment was made or on whose behalf or from whom the payment was received | Particulars of the transaction in connection with which the payment was made or received | Amount paid or received | Date of payment or receipt | Whether paid or received in cash or by book adjustment |
|-----------|-----------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------|-------------------------|----------------------------|--------------------------------------------------------|
|           |                                                                                                                       |                                                                                          |                         |                            |                                                        |

Date

Signature

Address

## FORM No 2

[See rule 12(2)]

Div 3  
App II  
Form 2

Return of income under sub section (1) or sub section (2) or sub section (3)  
of section 139 of the Income tax Act 1961, for persons  
**OTHER THAN COMPANIES**

Assessment year 19 —19

Name .  
Status (whether individual, H U F, etc)  
Address (Office)  
(Residence)

## PART I

\*Statement of total income and total world income during the previous year(s)  
ended

| **Source of income<br>1                                                                                                                                                                                                                                                                                                           | †Amount<br>of incomes<br>2 | †Amount<br>of losses<br>3 | Tax already<br>deducted at<br>source<br>4 |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|---------------------------|-------------------------------------------|
| <b>SECTION A —Income which accrued or arose or was received or is deemed to have accrued or arisen or been received in India in the previous year</b><br><b>1 SALARIES</b><br>Total amount as detailed in Part V of the return<br>(Please attach a detailed statement of monthly salary and tax deducted therefrom)               |                            |                           |                                           |
| <b>2 INTEREST ON SECURITIES</b><br>(i) interest on securities of the Central Government issued income tax free<br>(ii) interest on securities of a State Government issued income tax free<br>(iii) interest on other securities                                                                                                  |                            |                           |                                           |
| <b>3 HOUSE PROPERTY</b><br>Total amount as detailed in Part VI of the return                                                                                                                                                                                                                                                      |                            |                           |                                           |
| <b>4 BUSINESS OR PROFESSION</b><br>(a) Profits and gains as detailed in Part VII of the return<br>(i) Speculation business—section 23, Explanation 2<br>(ii) Other business or profession<br>(b) Share of profits in a registered firm<br>(i) Speculation business—section 23, Explanation 2<br>(ii) Other business or profession |                            |                           |                                           |

| <p><b>**Source of income</b></p> <p>1</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | <p>†Amount of incomes</p> <p>2</p> | <p>† Amount of losses</p> <p>3</p> | <p>Tax already deducted at source</p> <p>4</p> |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------|------------------------------------|------------------------------------------------|
| <p>‡(c) Share of profits in an unregistered firm or association of persons, or body of individuals</p> <p>(i) Speculation business—section 28, Explanation 2</p> <p>(ii) Other business or profession</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                    |                                    |                                                |
| <p><b>5 CAPITAL GAINS</b></p> <p>Capital gains as detailed in Part IX</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                    |                                    |                                                |
| <p><b>6 OTHER SOURCES</b></p> <p>†† Dividends from companies</p> <p>Interest other than interest on securities</p> <p>Ground rent</p> <p>Other items—give details</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                    |                                    |                                                |
| <p><b>TOTAL OF SECTION A</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                    |                                    |                                                |
| <p><b>SECTION B —(To be filled in only by persons who are (i) resident or (ii) resident but not ordinarily resident )</b></p> <p><i>Income which accrued or arose outside India but not deemed to have accrued or arisen or not received or deemed to have been received in India in the previous year</i></p> <p>(a) Persons who are “resident” in India should show their full income of the type mentioned above</p> <p>(b) Persons who are “resident but not ordinarily resident” in India should show only so much of the income of the type mentioned above as arises from a business controlled in or profession set up in India</p> <p>(Please classify the income according to the heads of income as specified in Section A )</p> |                                    |                                    |                                                |
| <p><b>TOTAL OF SECTION B</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                    |                                    |                                                |
| <p><b>SECTION C —(To be filled in only by persons who are (i) resident but not ordinarily resident or (ii) non resident )</b></p> <p><i>Income accruing or arising outside India except—</i></p> <p>(i) income already shown in Sections A and B,</p> <p>(ii) income which under the provisions of Chapter III of the Income tax Act, 1961, is not included in the total income; and</p>                                                                                                                                                                                                                                                                                                                                                    |                                    |                                    |                                                |

| **Source of income<br>1                                                                                                                                                                                                                                                                                                                                          | †Amount<br>of incomes<br>2           | †Amount<br>of losses<br>3 | Tax already<br>deducted at<br>source<br>4 |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------|---------------------------|-------------------------------------------|
| (m) capital gains which are not included in the total income<br>(Please classify the income according to the heads of incomes specified in Section A)                                                                                                                                                                                                            |                                      |                           |                                           |
| TOTAL OF SECTION C                                                                                                                                                                                                                                                                                                                                               |                                      |                           |                                           |
| SECTION D— <i>Total income</i><br>§Amount of total income Rs ±                                                                                                                                                                                                                                                                                                   |                                      |                           |                                           |
| SECTION E— <i>Total world income</i><br>(Not applicable in the case of persons who are "resident" in India)<br>Total income as specified in Section D Rs ±<br>Add Net total of columns 2 and 3 of Section C Rs ±<br>TOTAL WORLD INCOME Rs ±                                                                                                                      |                                      |                           |                                           |
| Sources of income                                                                                                                                                                                                                                                                                                                                                | Particulars of items                 | Amount<br>Rs              |                                           |
| SECTION F— <i>In this Section should be shown any amount which is not included in Sections A, B and C and which the assessee claims to be not taxable for any reasons such as—</i><br>that the receipt is of a casual nature not arising from any business or profession, or occupation, or<br>that it is exempt under any provision of the Income tax Act, 1961 | 1<br>2<br>3<br>4<br>5<br>6<br>7<br>8 |                           |                                           |
| TOTAL OF SECTION F                                                                                                                                                                                                                                                                                                                                               |                                      |                           |                                           |

NOTES —\* If there are different previous years for different sources of income, the source or sources should be indicated against each previous year

\*\* Income of other persons which is to be included in the assessee's total income under sections 60 to 64 of the Income tax Act, 1961, should also be taken into account in filling this return

† Where the net result of computation of income in respect of any source is a positive figure, it should be shown in col 2 against the relevant source of income, where it is a negative figure (i.e., a loss) it should be shown in col 3

‡ Against these items should be shown the amount of share in the income or loss, as the case may be. For the purposes of assessment, the composition of this amount into the various heads of income will be determined by the Income tax Officer

†† The amount to be shown in col 2 is the full amount of dividend declared by a company including the tax deducted under section 194 of the Income tax Act, 1961, reduced by the deductions admissible under section 57

§ Total income is to be computed by making adjustments to the particulars of income shown in Sections A and B in the manner indicated in Annexure I to this return

## PART II

**Statement of sums included in total income in respect of which income tax and/or super tax is not payable or on which rebate of income tax and/or super-tax is available**

|                                                                                                                                                                                                                                                                                                                                                                |  |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| 1 Sums deducted from salary payable by the Government and to which section 87(1) (c) applies                                                                                                                                                                                                                                                                   |  |
| 2 Sums paid in respect of a contract for a deferred annuity, or to effect an insurance on the life of the assessee or on the life of his wife, or her husband or in the case of a Hindu undivided family, to effect an insurance on the life of any male member or his wife (The original receipt or certificate from the insurance company must be attached ) |  |
| 3 Contributions to (a) any provident fund to which the Provident Funds Act, 1925, applies, (b) a recognised provident fund, or (c) a provident fund established under the Employees' Provident Funds Act, 1952, or (d) an approved superannuation fund                                                                                                         |  |
| 4 Share in the income of an unregistered firm or an association of persons or a body of individuals where the tax has already been paid or is payable on the income by the firm or association or body (give details)                                                                                                                                          |  |
| 5 Interest on income tax free securities                                                                                                                                                                                                                                                                                                                       |  |
| 6 (i) Income of new industrial undertakings exempt under sections 84 and 101 (1)<br>(ii) Dividends from new industrial undertakings or hotels exempt under sections 85 and 101 (2)                                                                                                                                                                             |  |
| 7 Donations to charitable institutions and funds or to Government or a local authority exempt under section 88 (give details)                                                                                                                                                                                                                                  |  |
| 8 Other items, if any (give details)                                                                                                                                                                                                                                                                                                                           |  |
| <b>TOTAL</b>                                                                                                                                                                                                                                                                                                                                                   |  |

## PART III

Div. 3  
App II  
Form 2

(a) To be completed in the case of all persons engaged in a business or profession. In the case of a firm/association/body this section should be completed in the return of the firm/association/body and not in the personal returns of the partners/members.

Name in which the business or profession is carried on or, in the case of a firm, association of persons or body of individuals, the name of the firm, association or body

Principal place of the business or profession

Location and style of each branch

1

2

3

(b) To be completed in the case of firms, associations of persons and bodies of individuals only

| Name of each partner/member | Residential address | Extent of share including interest on capital, salary, commission or other remuneration, if any (give details) |
|-----------------------------|---------------------|----------------------------------------------------------------------------------------------------------------|
|                             |                     |                                                                                                                |

(c) To be completed in case where the assessee is a partner in a firm or a member in an association of persons or a body of individuals

| Name and address of the firm/association of persons/body of individuals | Name of each partner/member including the assessee | Relationship with assessee* | Address of each partner/member | Extent of share of each partner/member (give details) |
|-------------------------------------------------------------------------|----------------------------------------------------|-----------------------------|--------------------------------|-------------------------------------------------------|
| 1                                                                       | 2                                                  | 3                           | 4                              | 5                                                     |
|                                                                         |                                                    |                             |                                |                                                       |

NOTE —\* State in this column whether any partner of the firm is husband, wife or minor child of the assessee

Div 3  
App II  
Form 2

## PART IV

Particulars to be filled up in the case of Hindu undivided families only

Name of family

Address

| Serial<br>No | Names of members of the<br>family (including the <i>Karta</i> )<br>at the end of the previous year<br>who were entitled to claim<br>partition | Relationship<br>to <i>Karta</i> | Age at the end<br>of the previous<br>year | Remarks |
|--------------|-----------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------|-------------------------------------------|---------|
| 1            | 2                                                                                                                                             | 3                               | 4                                         | 5       |
| 1            | ( <i>Karta</i> )                                                                                                                              |                                 |                                           |         |
| 2            |                                                                                                                                               |                                 |                                           |         |



Div 3  
App II  
Form 2

PART V  
Salaries

|    |                                                                                                                                                                                                                                                  |  |
|----|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| 1  | Name and address of employer                                                                                                                                                                                                                     |  |
| 2  | Total amount of salary (including any advance of salary), wages, annuities, pensions, gratuities, commission, bonus, fees or profits in lieu of or in addition to salary and wages, due to be paid, whether received or not                      |  |
| 3  | Total amount of periodical cash allowances like house rent allowance, entertainment allowance, etc (Give details)                                                                                                                                |  |
| 4  | Employer's contributions to recognised provident fund in excess of 10% of the employer's salary and in excess credited to assessee's account in the fund in excess of 1/3 of the salary or in excess of the rate fixed by the Central Government |  |
| 5  | Value of rent free accommodation or value of any concession in rent for the accommodation provided by the employer (Give basis of computation. State also whether accommodation is furnished or unfurnished)                                     |  |
| 6  | Where a free conveyance has been provided by the employer, estimated value of the perquisite (Give details)                                                                                                                                      |  |
| 7  | Remuneration paid by employer for domestic and personal services provided to the assessee (Give details)                                                                                                                                         |  |
| 8  | Value of free or concessional passages or home leave and other travelling abroad provided by the employer (Give details)                                                                                                                         |  |
| 9  | Estimated value of any other benefit or amenity provided by the employer, free of cost or at concessional rate, not included in the preceding columns (Give details)                                                                             |  |
| 10 | Any other amount chargeable under the head "Salaries" (Give details)                                                                                                                                                                             |  |
| 11 | Total salary (Total of columns 2 to 10)                                                                                                                                                                                                          |  |
| 12 | Amounts included in column 11 which are claimed to be non-taxable u/s 10(5), 10(6), 10(7), 10(10), 10(11), 10(12), 10(13), 10(14), 10(15), 10(16), 10(17) and 17(2)(iii)(c) (Give details)                                                       |  |
| 13 | Entertainment allowance claimed u/s 16(ii)                                                                                                                                                                                                       |  |
| 14 | Expenditure on or in conveyance (Give details separately for running expense and wear and tear claimed) u/s 16(iv)                                                                                                                               |  |
| 15 | Total of columns 12 to 14                                                                                                                                                                                                                        |  |
| 16 | Net income chargeable under the head "Salaries" (Transferred to Part I of the return (column 11 minus 15))                                                                                                                                       |  |

## Income from house property

| Serial No | 1 | 2                                                      | 3                                     | 4                                                                                                                                    | 5                                                                     | 6                                                                                                                               | 7                                            | 8                                                                                                           | 9                                                                                                                             | 10                                                                                                                                                                                                                                 | 11                                                                                                      | 12                                                                                                                        | 13                      | 14                                                                | 15                                                                                                                                                                                          | 16                                | 17                                 | 18                                                                       | 19                                                                    | 20                                               | 21                        | 22                                                                             |
|-----------|---|--------------------------------------------------------|---------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------|-------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------|-------------------------|-------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------|------------------------------------|--------------------------------------------------------------------------|-----------------------------------------------------------------------|--------------------------------------------------|---------------------------|--------------------------------------------------------------------------------|
|           |   | Name of village or town where the property is situated | Name of street and number of property | When the property is situated in a municipality, the name of the person in whose name the property stands in the municipal registers | Whether the property is occupied wholly or partly by the owner or let | If you are a part owner of the property, state the amount of your share and the names of the other part owners and their shares | * Annual municipal valuation of the property | Full annual rent payable by the tenant if the property is let, including owner's burden borne by the tenant | + Deduct—Tenant's liabilities relating to taxes levied by a local authority but borne by the owner and claimed as a deduction | Deduct—In case of property occupied by the owner for his own residence, (a) half of the net amount after deducting the amount in col 9 from the amount in col 7 or, as the case may be, col 8, or (ii) Rs 1,800, whichever is less | + Deduct—Sum admissible in respect of newly constructed buildings, vide second proviso to section 23(1) | Net amount after deducting amounts shown in cols 9, 10 and 11 from the amount shown in col 7 or col 8, as the case may be | § Allowance for repairs | Premium paid to insure the property against damage or destruction | Interest on mortgage or capital charge or any annual charge on the property or interest on capital borrowed for acquiring, constructing, repairing, renewing or reconstructing the property | Ground rent paid for the property | Land revenue paid for the property | Collection charges paid (not to exceed 6% of the amount shown in col 12) | Amount claimed on account of property remaining vacant (give details) | Unrealised rent (details to be given separately) | Total of columns 13 to 20 | Net income from property carried to Part I of the return (col 12 minus col 21) |

NOTES.—\*The higher of the figures given in columns 7 and 8 should be taken as the basis of determining the income from property.

+In the case of house property the construction of which was completed on or after the 1st April, 1950, the claim is to be restricted to one half of the total amount of such taxes levied by the local authority.

+In the case of a building (comprising one or more residential units) the erection of which is begun and completed after the 1st day of April, 1961, the annual value shall for a period of three years from the date of completion of the building be reduced by a sum equal to the aggregate of (i) in respect of any residential unit whose annual value does not exceed Rs 600 the amount of such annual value, and (ii) in respect of any residential unit whose annual value exceeds Rs 600 an amount of Rs 600 so however, that the income in respect of any residential unit is in no case a negative figure.

§The amount admissible on account of repairs is—

(a) where the owner has undertaken to bear the cost of the repairs a sum equal to 1/6 of the amount shown in column 12 and

(b) where the tenant has undertaken to bear the cost of repairs, the excess of the amount shown in column 12 over the amount of rent payable or 1/6 of the amount shown in column 12 whichever is less.

## PART VII

## Particulars of income from business or profession

Div. 3  
App. II  
Form 2

(1) In the case of a firm, association of persons or body of individuals this part is to be completed in the return of the firm, association or body and not in the personal returns of the partners or members.

(2) If the accounts are kept on the mercantile system of accounting, a copy of the manufacturing accounts or trading accounts, the profit and loss accounts and balance sheet or trial balance must be attached to the return. If the accounts are kept on any other system, description of the system should be given and a copy of any statement which corresponds to the profit and loss account and balance sheet in the mercantile accounting system must be attached to the return. If the accounts are audited outside of the United States, the accounts should accompany the return but if the accounts were not audited, a statement showing how profits have been computed from the books of account maintained for the business should accompany the return.

---

| * Profit or loss as per profit and loss account (or statement corresponding to the profit and loss account) for the previous year ended                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Speculation business<br>Rs<br>Profit +<br>Loss — | Other business or profession<br>Rs<br>Profit +<br>Loss — |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------|----------------------------------------------------------|
| Any other expenditure not incurred wholly and exclusively for the purpose of the business or profession (give details)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                  |                                                          |
| Any other expenditure which is not allowable under the provisions of sections 30 to 43 of the Income-tax Act, 1961 (give details)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                  |                                                          |
| <i>Deduct—</i><br>Any profit or gain, capital sums or other items credited in arriving at the above figure of profit which are not taxable under the head "Profits and gains of business or profession" or which have already been charged to tax in the hands of the assessee (give details)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                  |                                                          |
| Depreciation as shown in Part VIII-A of the return                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                  |                                                          |
| Scientific research expenditure (if not charged in arriving at the above figure of profit)<br>(i) Any expenditure (not in the nature of capital expenditure) laid out or expended on scientific research related to the business (give details)<br>(ii) Any sum paid to an approved scientific research association having as its object the undertaking of scientific research or to an approved university, college or other institution to be used for scientific research (give details)<br>(iii) Any sum paid to an approved university, college or other institution to be used for research in social science or statistical research related to the class of business carried on (give details)<br>(iv) The appropriate part of expenditure of a capital nature on scientific research related to the business admissible under section 35(2) of the Act (give details) |                                                  |                                                          |
| Any other allowable expense which has not been charged in arriving at the above figure of profit (give details)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                  |                                                          |
| † Development rebate allowable                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                  |                                                          |
| * <i>Net profit</i> (or loss) carried to Part I of the return<br>Profit +<br>Loss —                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                  |                                                          |

*N.B.*—The above particulars should be given for each separate and distinct business

Delete the inappropriate words.

\* Profits should be prefixed by the symbol + and losses by the symbol —

† The amount allowable is restricted to such part of the amount shown in Part VIII B as is sufficient to reduce to nil the total income as computed before making any allowance on account of development rebate. The remaining amount, if any, is to be carried forward to subsequent assessment years—section 33

PART VIII A

DEPRECIATION

Statement of particulars prescribed under section 34(1) of the Income tax Act, 1961, and of the amount of depreciation

## PART VIII-B

## DEVELOPMENT REBATE UNDER SECTIONS 33 AND 34

Statement of particulars prescribed for the purposes of sections 33 and 34 of the Income-tax Act, 1961, and of the amount of development rebate

| Description of new machinery or plant installed<br>1 | Actual cost of new machinery or plant installed<br>2 | Date of installation<br>3 | Ratio per cent<br>4 | Amount of rebate<br>5 | Amount of development rebate reserved created [section 34(3)(c)]<br>6 | Remarks<br>7 |
|------------------------------------------------------|------------------------------------------------------|---------------------------|---------------------|-----------------------|-----------------------------------------------------------------------|--------------|
|                                                      |                                                      |                           |                     |                       |                                                                       |              |

**PART IX**  
**Particulars of capital gains**  
*Statement A*

| Sl<br>No | Description of<br>asset                                                            | Date on<br>which asset<br>became<br>property of<br>the assessee | Date of<br>the<br>transfer | Full value of<br>the considera-<br>tion for which<br>transfer<br>was made | Deductions                                                                                                                                                             |                                                       |                                                                                                                 |                                                                                                            | Amount of<br>capital gains<br>(col 5 minus<br>col 9) If<br>amount is a<br>loss (col 9<br>minus col 5)<br>enter the figure<br>in red ink and<br>show it<br>distinctly<br>as loss |
|----------|------------------------------------------------------------------------------------|-----------------------------------------------------------------|----------------------------|---------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|          |                                                                                    |                                                                 |                            |                                                                           | Cost of<br>acquisition<br>(or in cases<br>applicable,<br>the value which<br>should be<br>deemed to be<br>the cost of<br>acquisition)<br>(see col 12 of<br>Statement B) | Cost of any<br>improvement<br>to the capital<br>asset | Expenditure<br>incurred<br>wholly and<br>exclusively in<br>connection<br>with the<br>transfer<br>(give details) | Total of cost<br>of acquisition<br>and other de-<br>ductions admis-<br>sible (Total of<br>cols 6, 7 and 8) |                                                                                                                                                                                 |
| 1        | 2                                                                                  | 3                                                               | 4                          | 5                                                                         | 6                                                                                                                                                                      | 7                                                     | 8                                                                                                               | 9                                                                                                          | 10                                                                                                                                                                              |
| 1        | House prop-<br>erties (with<br>description<br>regarding<br>size, locality,<br>etc) |                                                                 |                            |                                                                           |                                                                                                                                                                        |                                                       |                                                                                                                 |                                                                                                            |                                                                                                                                                                                 |
| 2        | Other assets<br>(with des-<br>cription<br>regarding<br>nature of<br>properties)    |                                                                 |                            |                                                                           |                                                                                                                                                                        |                                                       |                                                                                                                 |                                                                                                            |                                                                                                                                                                                 |

Net capital gains/loss Rs

Deduct

Exemptions claimed

(a) Capital gains from house property exempt u/s 53

Rs

(b) Capital gains from house property re-invested in new house property exempt u/s 54

Rs

Net capital gains/loss transferred to item 6 in Sec A of Part I of this return

I declare that to the best of my knowledge and belief the information given in the above statements in Parts I, II, III, IV, V, VI, VII, VIII-A, VIII-B and IX of the return is correct and complete, that the amount of total income and total world income and other particulars shown are truly stated and relate to all the previous years relevant to the assessment year commencing on the 1st day of April, 19\_\_\_\_, and that no other income

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Form 2

accrued or arose to or was received by \_\_\_\_\_ during \_\_\_\_\_

\*mo\*\*  
 \_\_\_\_\_  
 the family  
 \_\_\_\_\_  
 the firm  
 \_\_\_\_\_  
 the association  
 \_\_\_\_\_  
 the body of individuals  
 \_\_\_\_\_  
 the local authority  
 \_\_\_\_\_  
 †

the said previous year(s) and that \_\_\_\_\_ had during the \_\_\_\_\_

\*I\*\*  
 \_\_\_\_\_  
 the family  
 \_\_\_\_\_  
 the firm  
 \_\_\_\_\_  
 the association  
 \_\_\_\_\_  
 the body of individuals  
 \_\_\_\_\_  
 the local authority  
 \_\_\_\_\_  
 †

said previous year(s) no other sources of income

†I further declare that \_\_\_\_\_ was \_\_\_\_\_

\*I\*\*  
 \_\_\_\_\_  
 the family  
 \_\_\_\_\_  
 the firm  
 \_\_\_\_\_  
 the association  
 \_\_\_\_\_  
 the body of individuals  
 \_\_\_\_\_  
 the local authority  
 \_\_\_\_\_  
 †

\*resident†  
 \_\_\_\_\_  
 resident but not ordinarily resident  
 \_\_\_\_\_  
 non resident

in India during the previous year(s) for which the return is made

§ I also declare that I\*\* was \_\_\_\_\_ at the end \_\_\_\_\_  
 of the \_\_\_\_\_ previous year \_\_\_\_\_  
 §§ latest of the previous years relevant to the assessment year for which the return is made

\*†† I also declare that I/\*\* the Hindu undivided family had no/one/more than one minor child/minor co parcener, wholly or mainly dependent on me \*\*/the family at the end of the \_\_\_\_\_ previous year \_\_\_\_\_  
 §§ latest of the previous year relevant to the assessment year for which the return is made

Date

Place

¶ Signature

NOTES — \*The alternatives which are not required in the declaration should be scored out



\*\*In the case of an assessee who is an individual, if the declaration is signed by a person other than the individual himself, the word "me" or "I" should be seconded out and the name of the assessee should be written here.

†Here describe the status, if not covered by the terms mentioned above vide section 2(51)(ii).

‡If a person is resident in India in a previous year relevant to an assessment year in respect of any source of income, he shall be deemed to be resident in India in the previous year relevant to the assessment year in respect of each of his other sources of income.

§This declaration should be made in the case of an individual.

§§These words are applicable where there is more than one previous year relevant to the assessment year for which the return is made.

‡‡This declaration should be made in the case of an individual or Hindu undivided family.

\*The declaration shall be signed by the person empowered to sign and verify the return in accordance with section 140 of the Income tax Act, 1961. The capacity in which the declaration is signed, should be indicated, e.g., *Karta* of the Hindu undivided family.

THE SIGNATORY SHOULD SATISFY HIMSELF THAT THE RETURN IS CORRECT AND COMPLETE IN EVERY RESPECT BEFORE SIGNING THE VERIFICATION.

## ANNEXURE I

[See Part I, Section D]

### *Computation of total income*

Total income is to be computed by making the following adjustments (wherever applicable) to the particulars of income shown in Sections A and B of Part I of the return, namely —

- (i) Adjustment for the amount of development rebate carried forward from earlier assessment years,
- (ii) Set off of loss from one source of income against income from another source within the same head of income—sections 70, 73(1), 75, 76, 77. Loss from a speculation business shall not be set off except against profits from another speculation business—section 73(1),
- (iii) Set off of loss from one head against income from another head—sections 71, 73(1), 75, 76 and 77. In this connection please also mention whether you wish to exercise the option given under the proviso to section 71. Loss under the head "Capital gains" shall not be set off against income under any other head—section 71,
- (iv) Set off of losses carried forward from earlier assessment years—sections 72, 73(2), 74, 75, 76, 77, 78 and 79. Loss from a speculation business or loss under the head "Capital gains" carried forward from an earlier assessment year can be set off only against income from speculation business or income under the head "Capital gains" as the case may be—sections 73(2) and 74,
- (v) Adjustment for unabsorbed allowance on account of depreciation or capital expenditure on scientific research carried forward from earlier assessment years—sections 32(2) and 35(4) read with sections 72(2) and 73(3).

Details of the adjustments should be indicated in a statement which should be appended to this return

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Form 2

**Return of particulars to be furnished under section 133 of the Income tax Act, 1961**

[See paragraph 4 of notice under section 139(2)]

(a) To be filled up by trustees, guardians or agents only

| Names and addresses of persons for or of whom the assessee is the trustee, guardian or agent |         | Whether trustee, guardian or agent |
|----------------------------------------------------------------------------------------------|---------|------------------------------------|
| Name                                                                                         | Address |                                    |
|                                                                                              |         |                                    |

*Date*

*Signature*

*Designation*

*Address*

(b) Statement of the names and addresses of all persons to whom assessee has paid in the previous year(s) rent, interest, commission, royalty or brokerage or any annuity (not being an annuity taxable under the head "Salaries") amounting to more than four hundred rupees and particulars of all such payments

| Serial No | Name and address of the person to whom the payment was made | Nature of payment | Amount paid | Date of payment | Whether paid in cash or by book adjustment |
|-----------|-------------------------------------------------------------|-------------------|-------------|-----------------|--------------------------------------------|
| 1         |                                                             |                   |             |                 |                                            |
| 2         |                                                             |                   |             |                 |                                            |
| 3         |                                                             |                   |             |                 |                                            |

*Date*

*Signature*

*Address*

(c) (To be filled in by any dealer, broker, or agent or any person concerned in the management of a stock or commodity exchange)

Statement of the names and addresses of all persons to whom the assessee or the exchange has paid in the previous year(s),

- (1) any sum or aggregate sums in excess of two thousand rupees where the payment represents "differences" paid in settlement of contracts without actual delivery of stocks or commodities, and
- (2) any sum or aggregate sums in excess of ten thousand rupees where the payment represents sale price in connection with the

transfer whether by way of sale, exchange or otherwise of assets or on whose behalf or from whom the assessee or the exchange has received any such sum and particulars of all such payments and receipts

(The question whether any payments or receipts relate to "capital assets" is a matter to be decided by the Income tax Officer. The person required to make the statements should treat all payments and receipts as pertaining to capital assets.)

(Separate statements should be made for payments and receipts.)

| Serial<br>No | Name and address<br>of the persons to<br>whom the payment<br>was made or on<br>whose behalf or<br>from whom the<br>payments as<br>received | Particulars of<br>the transaction<br>in connection<br>with which the<br>payment was<br>made or<br>received | Amount<br>paid or<br>received | Date of<br>payment<br>or<br>receipt | Whether paid or<br>received in cash<br>or by book<br>adjustment |
|--------------|--------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------|-------------------------------|-------------------------------------|-----------------------------------------------------------------|
|              |                                                                                                                                            |                                                                                                            |                               |                                     |                                                                 |

Date

Signature

Address

## FORM No 3

[See rule 12(3)(i)]

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Form 3

Return of income under sub section (1) or sub section (2) or sub section (3) of section 139 of the Income-tax Act, 1961, for persons who derive income from sources **OTHER THAN BUSINESS OR PROFESSION** and who have income chargeable under the heads "Salaries" or "Interest on securities" or "Income from other sources" only

Assessment year 19 —19

Name  
Status (whether individual, H U F, etc)  
Address (Office)  
(Residence) ..

## PART I

\*Statement of total income and total world income during previous year(s) ended

| ** Source of income<br>1                                                                                                                                                                                                  | †Amount<br>of incomes<br>2 | †Amount<br>of losses<br>3 | Tax already<br>deducted at<br>source<br>4 |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|---------------------------|-------------------------------------------|
| SECTION A — <i>Income which accrued or arose or was received or is deemed to have accrued or arisen or been received in India in the previous year</i>                                                                    |                            |                           |                                           |
| 1 SALARIES<br>Total amount as detailed in Part IV of the return<br>(Please attach a detailed statement of monthly salary and tax deducted therefrom)                                                                      |                            |                           |                                           |
| 2 INTEREST ON SECURITIES<br>(i) interest on securities of the Central Government issued income tax free<br>(ii) interest on securities of a State Government issued income tax free<br>(iii) interest on other securities |                            |                           |                                           |
| 3 OTHER SOURCES<br>††Dividends from companies<br>Interest other than interest on securities<br>Ground rent<br>Other items (give details)                                                                                  |                            |                           |                                           |
| TOTAL OF SECTION A                                                                                                                                                                                                        |                            |                           |                                           |

| Sources of income                                                                                                                                                                 | Particulars of items | Amount<br>Rs |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|--------------|
| SECTION F— <i>In this Section should be shown any amount which is not included in Sections A, B and C and which the assessee claims to be not taxable for any reason such as—</i> | 1                    |              |
|                                                                                                                                                                                   | 2                    |              |
|                                                                                                                                                                                   | 3                    |              |
|                                                                                                                                                                                   | 4                    |              |
|                                                                                                                                                                                   | 5                    |              |
| that the receipt is of a casual nature not arising from any business or profession, vocation or occupation, or                                                                    | 6                    |              |
|                                                                                                                                                                                   | 7                    |              |
| that it is exempt under any other provision of the Income tax Act, 1961                                                                                                           | 8                    |              |
| TOTAL OF SECTION F                                                                                                                                                                |                      |              |

NOTES—\*If there are different previous years for different sources of income, the source or sources should be indicated against each previous year

\*\*Income of other persons which is to be included in the assessee's total income under sections 60 to 64 of the Income tax Act, 1961, should also be taken into account in filling this return

†Where the net result of computation of income in respect of any source is a positive figure, it should be shown in col 2 against the relevant source of income, where it is a negative figure (*i.e.*, a loss) it should be shown in col 3

††The amount to be shown in col 2 is the full amount of dividend declared by a company including the tax deducted under section 194 of the Income tax Act, 1961, reduced by the deductions admissible under section 57

§Total income is to be computed by making adjustments to the particulars of income shown in Sections A and B in the manner indicated in Annexure I to this return

## PART II

**Statement of sums included in total income in respect of which income-tax and/or super-tax is not payable or on which rebate of income-tax and/or super-tax is available**

|                                                                                                                                                                                                                                                                                                                                                               | Rs |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----|
| 1 Sums deducted from salary payable by the Government and to which section 87(1)(c) applies                                                                                                                                                                                                                                                                   |    |
| 2 Sums paid in respect of a contract for a deferred annuity, or to effect an insurance on the life of the assessee or on the life of his wife, or her husband or in the case of a Hindu undivided family, to effect an insurance on the life of any male member or his wife (The original receipt or certificate from the insurance company must be attached) |    |
| 3 Contributions to (a) any provident fund to which the Provident Funds Act, 1925, applies, (b) a recognised provident fund, or (c) a provident fund established under the Employees' Provident Funds Act, 1952, or (d) an approved superannuation fund                                                                                                        |    |
| 4 Interest on income tax free securities                                                                                                                                                                                                                                                                                                                      |    |
| 5 Dividends from new industrial undertakings or hotels exempt under sections 85 and 101(2)                                                                                                                                                                                                                                                                    |    |
| 6 Donations to charitable institutions and funds or to Government or a local authority exempt under section 88 (give details)                                                                                                                                                                                                                                 |    |
| 7 Other items, if any (give details)                                                                                                                                                                                                                                                                                                                          |    |
| TOTAL                                                                                                                                                                                                                                                                                                                                                         |    |

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App II  
Form 3PART IV  
Salaries

|    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   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|----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|--|--|--|--|--|--|--|--|
| 1  | Name and address of employer                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |  |  |  |  |  |  |  |  |  |
| 2  | Total amount of salary including any advance salary, wages, annuities, pensions, gratuities, commission, bonus, fees or profits in lieu of or in addition to salary and wages due to be paid, whether received or not                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |  |  |  |  |  |  |  |  |  |
| 3  | Total amount of periodical cash allowances like house rent allowance, entertainment allowance, etc (give details)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          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| 4  | Employer's contributions to recognised provident fund in excess of 10% if the employee's salary and interest credited to assessee's account in the fund in excess of 1/3 of the salary or in excess of the rate fixed by the Central Government                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   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| 5  | Value of rent free accommodation or value of any concession in rent for the accommodation provided by the employer (Give basis of computation State also whether accommodation is furnished or unfurnished)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       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| 6  | Where a free conveyance has been provided by the employer, estimated value of the perquisite (give details)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                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| 7  | Remuneration paid by employer for domestic and personal services provided to the assessee (give details)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   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| 8  | Value of free or concessional passages on home leave and other travelling abroad provided by the employer (give details)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   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| 9  | Estimated value of any other benefit or amenity provided by the employer, free of cost or at concessional rate, not included in the preceding columns (give details)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |  |  |  |  |  |  |  |  |  |
| 10 | Any other amount chargeable under the head "Salaries" (give details)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |  |  |  |  |  |  |  |  |  |
| 11 | Total salary (Total of columns 2 to 10)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |  |  |  |  |  |  |  |  |  |
| 12 | Amounts included in column 11 which are claimed to be non taxable u/s 10(5), 10(6), 10(8), 10(9), 10(10), 10(17), 16(e), 16(f), 16(g), 16(h), 16(i), 16(j), 16(k), 16(l), 16(m), 16(n), 16(o), 16(p), 16(q), 16(r), 16(s), 16(t), 16(u), 16(v), 16(w), 16(x), 16(y), 16(z), 16(aa), 16(ab), 16(ac), 16(ad), 16(af), 16(ag), 16(ah), 16(ai), 16(aj), 16(ak), 16(al), 16(am), 16(an), 16(ao), 16(ap), 16(aq), 16(ar), 16(as), 16(at), 16(au), 16(av), 16(aw), 16(ax), 16(ay), 16(az), 16(ba), 16(bb), 16(bc), 16(bd), 16(be), 16(bf), 16(bg), 16(bh), 16(bi), 16(bj), 16(bk), 16(bl), 16(bm), 16(bn), 16(bo), 16(bp), 16(bq), 16(br), 16(bs), 16(bt), 16(bu), 16(bv), 16(bw), 16(bx), 16(by), 16(bz), 16(ca), 16(cb), 16(cc), 16(cd), 16(ce), 16(cf), 16(cg), 16(ch), 16(ci), 16(cj), 16(ck), 16(cl), 16(cm), 16(cn), 16(co), 16(cp), 16(cq), 16(cr), 16(cs), 16(ct), 16(cu), 16(cv), 16(cw), 16(cx), 16(cy), 16(cz), 16(da), 16(db), 16(dc), 16(dd), 16(de), 16(df), 16(dg), 16(dh), 16(di), 16(dj), 16(dk), 16(dl), 16(dm), 16(dn), 16(do), 16(dp), 16(dq), 16(dr), 16(ds), 16(dt), 16(du), 16(dv), 16(dw), 16(dx), 16(dy), 16(dz), 16(ea), 16(eb), 16(ec), 16(ed), 16(ee), 16(ef), 16(eg), 16(eh), 16(ei), 16(ej), 16(ek), 16(el), 16(em), 16(en), 16(eo), 16(ep), 16(eq), 16(er), 16(es), 16(et), 16(eu), 16(ev), 16(ew), 16(ex), 16(ey), 16(ez), 16(fa), 16(fb), 16(fc), 16(fd), 16(fe), 16(ff), 16(fg), 16(fh), 16(fi), 16(fj), 16(fk), 16(fl), 16(fm), 16(fn), 16(fo), 16(fp), 16(fq), 16(fr), 16(fs), 16(ft), 16(fu), 16(fv), 16(fw), 16(fx), 16(fy), 16(fz), 16(ga), 16(gb), 16(gc), 16(gd), 16(ge), 16(gf), 16(gg), 16(gh), 16(gi), 16(gj), 16(gk), 16(gl), 16(gm), 16(gn), 16(go), 16(gp), 16(gq), 16(gr), 16(gs), 16(gt), 16(gu), 16(gv), 16(gw), 16(gx), 16(gy), 16(gz), 16(ha), 16(hb), 16(hc), 16(hd), 16(he), 16(hf), 16(hg), 16(hh), 16(hi), 16(hj), 16(hk), 16(hl), 16(hm), 16(hn), 16(ho), 16(hp), 16(hq), 16(hr), 16(hs), 16(ht), 16(hu), 16(hv), 16(hw), 16(hx), 16(hy), 16(hz), 16(ia), 16(ib), 16(ic), 16(id), 16(ie), 16(if), 16(ig), 16(ih), 16(ii), 16(ij), 16(ik), 16(il), 16(im), 16(in), 16(io), 16(ip), 16(iq), 16(ir), 16(is), 16(it), 16(iu), 16(iv), 16(iw), 16(ix), 16(iy), 16(iz), 16(ja), 16(jb), 16(jc), 16(jd), 16(je), 16(jf), 16(jg), 16(jh), 16(ji), 16(jj), 16(jk), 16(jl), 16(jm), 16(jn), 16(jo), 16(jp), 16(jq), 16(jr), 16(js), 16(jt), 16(ju), 16(jv), 16(jw), 16(jx), 16(jy), 16(jz), 16(ka), 16(kb), 16(kc), 16(kd), 16(ke), 16(kf), 16(kg), 16(kh), 16(ki), 16(kj), 16(kk), 16(kl), 16(km), 16(kn), 16(ko), 16(kp), 16(kq), 16(kr), 16(ks), 16(kt), 16(ku), 16(kv), 16(kw), 16(kx), 16(ky), 16(kz), 16(la), 16(lb), 16(lc), 16(ld), 16(le), 16(lf), 16(lg), 16(lh), 16(li), 16(lj), 16(lk), 16(ll), 16(lm), 16(ln), 16(lo), 16(lp), 16(lq), 16(lr), 16(ls), 16(lt), 16(lu), 16(lv), 16(lw), 16(lx), 16(ly), 16(lz), 16(ma), 16(mb), 16(mc), 16(md), 16(me), 16(mf), 16(mg), 16(mh), 16(mi), 16(mj), 16(mk), 16(ml), 16(mn), 16(mo), 16(mp), 16(mq), 16(mr), 16(ms), 16(mt), 16(mu), 16(mv), 16(mw), 16(mx), 16(my), 16(mz), 16(na), 16(nb), 16(nc), 16(nd), 16(ne), 16(nf), 16/ng), 16(nh), 16(ni), 16(nj), 16(nk), 16(nl), 16(nm), 16(nn), 16(no), 16(np), 16(nq), 16(nr), 16(ns), 16(nt), 16(nu), 16(nv), 16(nw), 16(nx), 16(ny), 16(nz), 16(oa), 16(ob), 16(oc), 16(od), 16(oe), 16(of), 16(og), 16(oh), 16(oi), 16(oj), 16(ok), 16(ol), 16(om), 16(on), 16(oo), 16(op), 16(oq), 16(or), 16(os), 16(ot), 16(ou), 16(ov), 16(ow), 16(ox), 16(oy), 16(oz), 16(pa), 16(pb), 16(pc), 16(pd), 16(pe), 16(pf), 16(pg), 16(ph), 16(pi), 16(pj), 16(pk), 16(pl), 16(pm), 16(pn), 16(po), 16(pp), 16(pq), 16(pr), 16(ps), 16(pt), 16(pu), 16(pv), 16(pw), 16(px), 16(py), 16(pz), 16(qa), 16(qb), 16(qc), 16(qd), 16(qe), 16(qf), 16(qg), 16(qh), 16(qi), 16(qj), 16(qk), 16(ql), 16(qm), 16(qn), 16(qo), 16(qp), 16(qq), 16(qr), 16(qs), 16(qt), 16(qu), 16(qv), 16(qw), 16(qx), 16(qy), 16(qz), 16(ra), 16(rb), 16(rc), 16(rd), 16(re), 16(rf), 16(rg), 16(rh), 16(ri), 16(rj), 16(rk), 16(rl), 16(rm), 16(rn), 16(ro), 16(rp), 16(rq), 16(rr), 16(rs), 16(rt), 16(ru), 16(rv), 16(rw), 16(rx), 16(ry), 16(rz), 16(sa), 16(sb), 16(sc), 16(sd), 16(se), 16(sf), 16(sg), 16(sh), 16(si), 16(sj), 16(sk), 16(sl), 16(sm), 16(sn), 16(so), 16(sp), 16(sq), 16(sr), 16(ss), 16(st), 16(su), 16(sv), 16(sw), 16(sx), 16(sy), 16(sz), 16(ta), 16(tb), 16(tc), 16(td), 16(te), 16(tf), 16(tg), 16(th), 16(ti), 16(tj), 16(tk), 16(tl), 16(tm), 16(tn), 16(to), 16(tp), 16(tq), 16(tr), 16(ts), 16(tt), 16(tu), 16(tv), 16(tw), 16(tx), 16(ty), 16(tz), 16(ua), 16(ub), 16(uc), 16(ud), 16(ue), 16(uf), 16(ug), 16(uh), 16(ui), 16(uj), 16(uk), 16(ul), 16(um), 16(un), 16(uo), 16(up), 16(uq), 16(ur), 16(us), 16(ut), 16(uy), 16(uz), 16(va), 16(vb), 16(vc), 16(vd), 16(ve), 16(vf), 16(vg), 16(vh), 16(vi), 16(vj), 16(vk), 16(vl), 16(vm), 16(vn), 16(vo), 16(vp), 16(vq), 16(vr), 16(vs), 16(vt), 16(vu), 16(vv), 16(vw), 16(vx), 16(vy), 16(vz), 16(wa), 16(wb), 16(wc), 16(wd), 16(we), 16(wf), 16(wo), 16(wp), 16(wq), 16(wr), 16(ws), 16(wt), 16(wu), 16(wv), 16(wx), 16(wo), 16(wy), 16(wz), 16(xa), 16(xb), 16(xc), 16(xd), 16(xe), 16(xf), 16(xg), 16(xh), 16(xi), 16(xj), 16(xk), 16(xl), 16(xm), 16(xn), 16(xo), 16(xp), 16(xq), 16(xr), 16(xs), 16(xt), 16(xu), 16(xv), 16(xw), 16(xx), 16(xy), 16(xz), 16(ya), 16(yb), 16(yc), 16(yd), 16(ye), 16(yf), 16(yg), 16(yh), 16(yi), 16(yj), 16(yk), 16(yl), 16(ym), 16(yn), 16(yo), 16(yp), 16(yq), 16(yr), 16(ys), 16(yt), 16(yu), 16(yv), 16(yw), 16(yx), 16(yz), 16(za), 16(zb), 16(zc), 16(zd), 16(ze), 16(zf), 16(zg), 16(zh), 16(zi), 16(zj), 16(zk), 16(zl), 16(zm), 16(zn), 16(zo), 16(zp), 16(zq), 16(zr), 16(zs), 16(zt), 16(zu), 16(zv), 16(zw), 16(zx), 16(zy), 16(zz)) |  |  |  |  |  |  |  |  |  |
| 13 | Entertainment allowance claimed u/s 16(ii)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |  |  |  |  |  |  |  |  |  |
| 14 | Expenditure on own conveyance (give details separately for running expenses and wear and tear claimed) u/s 16(iii)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |  |  |  |  |  |  |  |  |  |
| 15 | Total of columns 12 to 14                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |  |  |  |  |  |  |  |  |  |
| 16 | Net income chargeable under the head "Salaries" transferred to Part I of the return (column 11 minus 15)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   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I declare that to the best of my knowledge and belief the information given in the above statements in Parts I, II, III and IV of the return is correct and complete, that the amount of total income and total world income and other particulars shown are truly stated and relate to all the previous years relevant to the assessment year commencing on the 1st day of April, 19\_\_\_\_, and that no other income

accrued or arose to or was received by me† during  
the family  
the association  
the body of individuals  
the local authority  
..

the said previous year(s) and that I† had during the  
the family  
the association  
the body of individuals  
the local authority  
..

and previous year(s) no other sources of income

†I further declare that I† was resident but not ordinarily resident  
the family non resident  
the association  
the body of individuals  
the local authority  
..

in India during the previous year(s) for which the return is made

§ I also declare that I† was \* a married individual/widow/widower at the end  
an unmarried individual  
of the previous year relevant to the assessment year for which  
§§ latest of the previous years  
the return is made

\*†† I also declare that I†/ the Hindu undivided family had no/one/more  
than one minor child/minor co-parcener, wholly or mainly dependent on  
me†/the family at the end of the previous year relevant to the  
§§ latest of the previous years  
assessment year for which the return is made

Date

Place

¶ Signature

NOTES — \*The alternatives which are not required in the declaration should be scored out

† In the case of an assessee who is an individual, if the declaration is signed by a person other than the individual himself the word "me" or "I" should be scored out and the name of the assessee should be written here

\*\* Here describe the status, if not covered by the terms mentioned above vide section 2(31)(vi)

‡ If a person is resident in India in a previous year relevant to an assessment year in respect of any source of income, he shall be deemed to be resident in India in the previous year relevant to the assessment year in respect of each of his other sources of income

§ This declaration should be made in the case of an individual

§§ These words are applicable where there is more than one previous year relevant to the assessment year for which the return is made

†† This declaration should be made in the case of an individual or Hindu undivided family

¶ The declaration shall be signed by the person empowered to sign and verify the return in accordance with section 140 of the Income tax Act, 1961. The capacity in which the declaration is signed, should be indicated, e.g., *Karta* of the Hindu undivided family

THE SIGNATORY SHOULD SATISFY HIMSELF THAT THE RETURN IS CORRECT AND COMPLETE IN EVERY RESPECT BEFORE SIGNING THE VERIFICATION

Div 3  
App II  
Form 3

## ANNEXURE I

[See Part I, Section D]

### *Computation of total income*

Total income is to be computed by making the following adjustments (wherever applicable) to the particulars of income shown in Sections A and B of the return, namely —

- (i) Set-off of loss from one source of income against income from another source within the same head of income—section 70
- (ii) Set-off of loss from one head against income from another head—section 71

Details of the adjustments should be indicated in a statement which should be appended to this return

Return of particulars to be furnished under section 133 of the Income tax Act, 1961

[See paragraph 4 of notice under section 139(2)]

(a) To be filled up by trustees, guardians or agents only

| Names and addresses of persons for or of whom the assessee is the trustee, guardian or agent |         | Whether trustee, guardian or agent |
|----------------------------------------------------------------------------------------------|---------|------------------------------------|
| Name                                                                                         | Address |                                    |
|                                                                                              |         |                                    |

Date

Signature

Designation

Address



(b) Statement of the names and addresses of all persons to whom assessee has paid in the previous year(s) rent, interest, commission, royalty or brokerage or any annuity (not being an annuity taxable under the head "Salaries") amounting to more than four hundred rupees and particulars of all such payments

| Serial No | Name and address of the person to whom the payment was made | Nature of payment | Amount paid | Date of payment | Whether paid in cash or by bank adjustment |
|-----------|-------------------------------------------------------------|-------------------|-------------|-----------------|--------------------------------------------|
| 1         |                                                             |                   |             |                 |                                            |
| 2         |                                                             |                   |             |                 |                                            |
| 3         |                                                             |                   |             |                 |                                            |

Date

Signature

Address

## FORM No 4

[See rule 12(3)(ii)]

Div. 3  
App II  
Form 4

Return of income under sub section (1) or sub section (2) or sub section (3) of section 139 of the Income tax Act, 1961, for persons **OTHER THAN COMPANIES** who derive income from sources **OTHER THAN BUSINESS OR PROFESSION** (not being a share as a partner in a firm or as a member in an association of persons or a body of individuals and who do not have income chargeable under the head "Salaries", or "Interest on securities" or "Income from other sources" only

Assessment year 19 —19

Name

Status (whether individual, H U F, etc )

Address (Office)

(Residence)

## PART I

\*Statement of total income and total world income during previous year(s) ended

| **Source of income<br>1                                                                                                                                                                                                   | †Amount<br>of incomes<br>2 | †Amount<br>of losses<br>3 | Tax already<br>deducted at<br>source<br>4 |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|---------------------------|-------------------------------------------|
| SECTION A — <i>Income which accrued or arose or was received or is deemed to have accrued or arisen or been received in India in the previous year</i>                                                                    |                            |                           |                                           |
| 1 SALARIES<br>Total amount as detailed in Part V of the return<br>(Please attach a detailed statement of monthly salary and tax deducted therefrom )                                                                      |                            |                           |                                           |
| 2 INTEREST ON SECURITIES<br>(i) interest on securities of the Central Government issued income tax free<br>(ii) interest on securities of a State Government issued income tax free<br>(iii) interest on other securities |                            |                           |                                           |
| 3 HOUSE PROPERTY<br>Total amount as detailed in Part VI of the return                                                                                                                                                     |                            |                           |                                           |
| 4 BUSINESS OR PROFESSION<br>† (a) Share of profits in a registered firm<br>(*) Speculation business—section 28, Explanation 2<br>(ii) Other business or profession                                                        |                            |                           |                                           |

| **Source of income<br>1                                                                                                                                                                                                                                                                                                                                         | † Amount<br>of incomes<br>2 | ‡ Amount<br>of losses<br>3 | Tax already<br>deducted at<br>source<br>4 |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------|----------------------------|-------------------------------------------|
| <b>SECTION D —Total income</b>                                                                                                                                                                                                                                                                                                                                  |                             |                            |                                           |
| § Amount of total income Rs ±                                                                                                                                                                                                                                                                                                                                   |                             |                            |                                           |
| <b>SECTION E —Total world income</b><br>(Not applicable in the case of persons who are "resident" in India)                                                                                                                                                                                                                                                     |                             |                            |                                           |
| Total income as specified in Section D Rs ±                                                                                                                                                                                                                                                                                                                     |                             |                            |                                           |
| Add Net total of columns 2 and 3 of Section C Rs ±                                                                                                                                                                                                                                                                                                              |                             |                            |                                           |
| TOTAL WORLD INCOME Rs ±                                                                                                                                                                                                                                                                                                                                         |                             |                            |                                           |
| Sources of income                                                                                                                                                                                                                                                                                                                                               | Particulars of items        |                            | Amount<br>Rs                              |
| SECTION F — <i>In this Section should be shown any amount which is not included in Sections A, B and C and which the assessee claims to be not taxable for any reason such as—</i><br>that the receipt is of a casual nature not arising from any business or profession or occupation, or<br>that it is exempt under any provision of the Income tax Act, 1961 | 1                           |                            |                                           |
|                                                                                                                                                                                                                                                                                                                                                                 | 2                           |                            |                                           |
|                                                                                                                                                                                                                                                                                                                                                                 | 3                           |                            |                                           |
|                                                                                                                                                                                                                                                                                                                                                                 | 4                           |                            |                                           |
|                                                                                                                                                                                                                                                                                                                                                                 | 5                           |                            |                                           |
|                                                                                                                                                                                                                                                                                                                                                                 | 6                           |                            |                                           |
|                                                                                                                                                                                                                                                                                                                                                                 | 7                           |                            |                                           |
|                                                                                                                                                                                                                                                                                                                                                                 | 8                           |                            |                                           |
| TOTAL OF SECTION F                                                                                                                                                                                                                                                                                                                                              |                             |                            |                                           |

NOTES —\*If there are different previous years for different sources of income, the source or sources should be indicated against each previous year

\*\*Income of other persons which is to be included in the assessee's total income under sections 60 to 64 of the Income tax Act, 1961, should also be taken into account in filling this return

†Where the net result of computation of income in respect of any source is a positive figure, it should be shown in col 2 against the relevant source of income, where it is a negative figure (i.e., a loss) it should be shown in col 3

‡Against these items should be shown the amount of share in the income or loss, as the case may be. For the purposes of assessment, the composition of this amount into the various heads of income will be determined by the Income tax Officer

††The amount to be shown in col 2 is the full amount of dividend declared by a company including the tax deducted under section 194 of the Income tax Act, 1961, reduced by the deductions admissible under section 57

§Total income is to be computed by making adjustments to the particulars of income shown in Sections A and B in the manner indicated in Annexure I to this return

## PART IV

Particulars to be filled up in the case of Hindu undivided families only

Div 3  
App II  
Form 4

Name of family

Address

| Serial<br>No | Names of members of the<br>family including the <i>Karta</i><br>at the end of the previous year<br>who were entitled to claim -<br>partition | Relationship<br>to <i>Karta</i> | Age at the end<br>of the previous<br>year | Remarks |
|--------------|----------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------|-------------------------------------------|---------|
| 1            | 2                                                                                                                                            | 3                               | 4                                         | 5       |
| 1            | ( <i>Karta</i> )                                                                                                                             |                                 |                                           |         |
| 2            |                                                                                                                                              |                                 |                                           |         |



## Income from house property

| Serial No | 1                                                                                                                                                                                                                                 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 | 21 | 22 |
|-----------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|---|---|---|---|---|---|---|----|----|----|----|----|----|----|----|----|----|----|----|----|
|           | Name of village or town where the property is situated                                                                                                                                                                            |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |
|           | Name of street and number of property                                                                                                                                                                                             |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |
|           | When the property is situated in a municipality, the name of the person in whose name the property stands in the municipal registers                                                                                              |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |
|           | Whether the property is occupied wholly or partly by the owner or let                                                                                                                                                             |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |
|           | If you are a part owner of the property, state the amount of your share and the names of the other part owners and their shares                                                                                                   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |
|           | * Annual municipal valuation of the property                                                                                                                                                                                      |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |
|           | * Full annual rent payable by the tenant if the property is let, including owner's burden borne by the tenant                                                                                                                     |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |
|           | † Deduct—Tenant's liabilities relating to taxes levied by a local authority but borne by the owner and claimed as a deduction                                                                                                     |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |
|           | Deduct—In case of property occupied by the owner for his own residence, (i) half of the net amount after deducting the amount in col 9 from the amount in col 7 or, as the case may be, col 8, or (ii) Rs 1800, whichever is less |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |
|           | † Deduct—Sum admissible in respect of newly constructed buildings, vide second proviso to section 23(1)                                                                                                                           |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |
|           | Net amount after deducting amounts shown in cols 9, 10 and 11 from the amount shown in col 7 or col 8 as the case may be                                                                                                          |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |
|           | § Allowance for repairs                                                                                                                                                                                                           |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |
|           | Premium paid to insure the property against damage or destruction                                                                                                                                                                 |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |
|           | Interest on mortgage or capital charge or any annual charge on the property or interest on capital borrowed for acquiring, constructing, repairing, renewing or reconstructing the property                                       |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |
|           | Ground rent paid for the property                                                                                                                                                                                                 |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |
|           | Land revenue paid for the property                                                                                                                                                                                                |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |
|           | Collection charges paid (not to exceed 6% of the amount shown in col 12)                                                                                                                                                          |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |
|           | Amount claimed on account of property remaining vacant (give details)                                                                                                                                                             |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |
|           | Unrealised rent (details to be given separately)                                                                                                                                                                                  |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |
|           | Total of columns 13 to 20                                                                                                                                                                                                         |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |
|           | Net income from property carried to Part I of the return (col 12 minus col 21)                                                                                                                                                    |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |

\* The higher of the figures given in columns 7 and 8 should be taken as the basis of determining the income from property

† In the case of house property the construction of which was completed on or after the 1st April, 1950, the claim is to be restricted to one half of the total amount of such taxes levied by the local authority

‡ In the case of a building (comprising one or more residential units) the erection of which is begun and completed after the 1st day of April, 1961, the annual value shall for a period of three years from the date of completion of the building be reduced by a sum equal to the aggregate of (i) the annual value of the unit whose annual value does not exceed Rs 600, the amount of such annual value, and (ii) in respect of any residential unit whose annual value exceeds Rs 600 an amount of Rs 600 so however, that the income in respect of any residential unit is in no case a negative figure

§ The amount admissible on account of repairs is—

(a) where the owner has undertaken to bear the cost of the repairs, a sum equal to 1/10 of the amount shown in column 12 and

(b) where the tenant has undertaken to bear the cost of repairs, the excess of the amount shown in column 12 over the amount of rent payable or 1/10 of the amount shown in column 12 whichever is less

PART VII  
Particulars of capital gains  
Statement A

| Sl<br>No | Description of<br>asset                                                             | Date on<br>which asset<br>became<br>property of<br>the assessee | Date of<br>the<br>transfer | Full value of<br>the considera-<br>tion for which<br>transfer was<br>made | Deductions                                                                                                                                                             |                                                       |                                                                                                                 |                                                                                        | Amount of<br>capital gains<br>(col 5 minus<br>col 9) If<br>amount is a<br>loss (col 9<br>minus col 5)<br>enter the figure<br>in red ink and<br>show it<br>distinctly<br>as loss |
|----------|-------------------------------------------------------------------------------------|-----------------------------------------------------------------|----------------------------|---------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|          |                                                                                     |                                                                 |                            |                                                                           | Cost of<br>acquisition<br>(or in cases<br>applicable,<br>the value which<br>should be<br>deemed to be<br>the cost of<br>acquisition)<br>(see col 12 of<br>Statement B) | Cost of any<br>improvement<br>to the capital<br>asset | Expenditure<br>incurred<br>wholly and<br>exclusively in<br>connection<br>with the<br>transfer<br>(give details) | Total of cost<br>of acquisition<br>and other do-<br>able (Total of<br>cols 6, 7 and 8) |                                                                                                                                                                                 |
| 1        | 2                                                                                   | 3                                                               | 4                          | 5                                                                         | 6                                                                                                                                                                      | 7                                                     | 8                                                                                                               | 9                                                                                      | 10                                                                                                                                                                              |
| 1        | House pro-<br>perties (with<br>description<br>regarding<br>size, locality,<br>etc.) |                                                                 |                            |                                                                           |                                                                                                                                                                        |                                                       |                                                                                                                 |                                                                                        |                                                                                                                                                                                 |
| 2        | Other assets<br>(with des-<br>cription<br>regarding<br>nature of<br>properties)     |                                                                 |                            |                                                                           |                                                                                                                                                                        |                                                       |                                                                                                                 |                                                                                        |                                                                                                                                                                                 |

Net capital gains/loss Rs  
Deduct

Exemptions claimed

(a) Capital gains from house property exempt u/s 53 Rs

(b) Capital gains from house property re-invested in new house property exempt u/s 54 Rs

Net capital gains/loss transferred to item 5 in Sec A of Part I of this return

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Statement B

| Description of asset                                                                                                                                                                                                                        |  | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|---|---|---|---|---|---|---|---|---|----|----|----|
| Date on which asset became property of the assessee                                                                                                                                                                                         |  |   |   |   |   |   |   |   |   |   |    |    |    |
| Manner in which asset became property of assessee (i.e., whether by purchase, construction at own expense, inheritance, succession, gift, family partition, etc.)                                                                           |  |   |   |   |   |   |   |   |   |   |    |    |    |
| Where asset became property of assessee by purchase or construction at own expense                                                                                                                                                          |  |   |   |   |   |   |   |   |   |   |    |    |    |
| Where asset became property of assessee otherwise than in manner referred to in col 4/5, as applicable (see section 49)                                                                                                                     |  |   |   |   |   |   |   |   |   |   |    |    |    |
| Where the asset is one in respect of which depreciation has been obtained (see section 50)                                                                                                                                                  |  |   |   |   |   |   |   |   |   |   |    |    |    |
| Cost of acquisition of the asset to the assessee on the date mentioned in column 2                                                                                                                                                          |  |   |   |   |   |   |   |   |   |   |    |    |    |
| Where the asset became the property of the assessee before 1st January, 1954, the fair market value of asset on that date                                                                                                                   |  |   |   |   |   |   |   |   |   |   |    |    |    |
| Cost of the asset to previous owner and, if it cannot be ascertained, the fair market value on the date on which asset became property of previous owner (mention the date also)                                                            |  |   |   |   |   |   |   |   |   |   |    |    |    |
| Fair market value of asset on 1st January, 1954, (if asset became property of previous owner before 1st January, 1954)                                                                                                                      |  |   |   |   |   |   |   |   |   |   |    |    |    |
| Fair market value of asset on the date of distribution of the capital asset by the company in liquidation                                                                                                                                   |  |   |   |   |   |   |   |   |   |   |    |    |    |
| Written down value as adjusted                                                                                                                                                                                                              |  |   |   |   |   |   |   |   |   |   |    |    |    |
| Where the fair market value of the asset on 1st January, 1954, is to be taken into account, the fair market value of the asset on 1st January, 1954, reduced by the amount of depreciation allowed after 1st January, 1954, and as adjusted |  |   |   |   |   |   |   |   |   |   |    |    |    |
| Deduct—advance or other moneys received and retained by the assessee on any previous occasion (section 51)                                                                                                                                  |  |   |   |   |   |   |   |   |   |   |    |    |    |
| Cost of acquisition or the value deemed to be the cost of acquisition (indicating how it is arrived at with reference to the figures in the preceding columns) transferred to col 6 of Statement A                                          |  |   |   |   |   |   |   |   |   |   |    |    |    |



I declare that to the best of my knowledge and belief the information given in the above statements in Parts I, II, III, IV, V, VI and VII of the return is correct and complete that the amount of total income and total world income and other particulars shown are truly stated and relate to all the previous years relevant to the assessment year commencing on the 1st day of April, 19\_\_\_\_, and that no other income

§ me §§

the family

the firm

the association

the body of individuals

the local authority

§

accrued or arose to or was received by

during

§ I §§

the family

the firm

the association

the body of individuals

the local authority

§

the said previous year(s) and that

had during the

said previous year(s) no other sources of income

§ I §§

the family

the firm

the association

the body of individuals

the local authority

§

\*I further declare that

§ resident

was resident but not ordinarily resident

not resident

in India during the previous year(s) for which the return is made

\*\*I also declare that I §§ was § a married individual, widow/widower  
an unmarried individual at the end

of the previous year relevant to the assessment year for which  
§ latest of the previous years the return is made

† I also declare that I §§ the Hindu undivided family had no/one/more  
than one minor child/minor co-parcener, wholly or mainly dependent  
on me §§ the family at the end of the previous year relevant to  
§ latest of the previous years the assessment year for which the return is made

Date

Place

† Signature

NOTES — § The alternatives which are not required in the declaration should be scored out

§ In the case of an assessee who is an individual, if the declaration is signed by a person other than the individual himself, the word "me" or "I" should be scored out and the name of the assessee should be written here

§ Here describe the status, if not covered by the terms mentioned above, vide section 2(37)(ii)

\*If a person is resident in India in a previous year relevant to an assessment year in respect of any source of income, he shall be deemed to be resident in India in the previous year relevant to the assessment year in respect of each of his other sources of income

\*\*This declaration should be made in the case of an individual

††These words are applicable where there is more than one previous year relevant to the assessment year for which the return is made

¶This declaration should be made in the case of an individual or Hindu undivided family

†The declaration shall be signed by the person empowered to sign and verify the return in accordance with section 140 of the Income tax Act, 1961 The capacity in which the declaration is signed, should be indicated, e.g., *Karta* of the Hindu undivided family

THE SIGNATORY SHOULD SATISFY HIMSELF THAT THE RETURN IS CORRECT AND COMPLETE IN EVERY RESPECT BEFORE SIGNING THE VERIFICATION

## ANNEXURE I

[See Part I, Section D]

### *Computation of total income*

Total income is to be computed by making the following adjustments (wherever applicable) to the particulars of income shown in Sections A and B of the return, namely —

- (i) Adjustment for the amount of development rebate carried forward from earlier assessment years ,
- (ii) Set-off of loss from one source of income against income from another source within the same head of income—sections 70, 73(1), 75, 76 and 77 Loss from a speculation business shall not be set off except against profits from another speculation business—section 73(1),
- (iii) Set off of loss from one head against income from another head—sections 71, 73(1), 75, 76 and 77 In this connection please also mention whether you wish to exercise the option given under the proviso to section 71 Loss under the head “Capital gains” shall not be set off against income under any other head—section 71 ,
- (iv) Set off of losses carried forward from earlier assessment years—sections 72, 73(2), 74, 75, 76, 77, 78 and 79 Loss from a speculation business or loss under the head “Capital gains” carried forward from an earlier assessment year can be set off only against income from speculation business or income under the head “Capital gains” as the case may be—sections 73(2) and 74 ,
- (v) Adjustment for unabsorbed allowance on account of depreciation or capital expenditure on scientific research carried forward from earlier assessment years—sections 32(2) and 35(4) read with sections 72(2) and 73(3)

Details of the adjustments should be indicated in a statement which should be appended to this return

# Return of particulars to be furnished under section 133 of the Income tax Act, 1961

[See paragraph 4 of notice under section 139(2)]

(a) To be filled up by trustees, guardians or agents only

| Names and addresses of persons for or of whom the assessee is the trustee, guardian or agent |         | Whether trustee, guardian or agent |
|----------------------------------------------------------------------------------------------|---------|------------------------------------|
| Name                                                                                         | Address |                                    |
|                                                                                              |         |                                    |

Date

Signature

Designation

Address

(b) Statement of the names and addresses of all persons to whom assessee has paid in the previous year(s) rent, interest, commission royalty or brokerage or any annuity (not being an annuity taxable under the head "Salaries") amounting to more than four hundred rupees and particulars of all such payments

| Serial No | Name and address of the person to whom the payment was made | Nature of payment | Amount paid | Date of payment | Whether paid in cash or by book adjustment |
|-----------|-------------------------------------------------------------|-------------------|-------------|-----------------|--------------------------------------------|
| 1         |                                                             |                   |             |                 |                                            |
| 2         |                                                             |                   |             |                 |                                            |
| 3         |                                                             |                   |             |                 |                                            |

Date

Signature

Address

(c) (To be filled in by any dealer, broker, or agent or any person concerned in the management of a stock or commodity exchange)

Statement of the names and addresses of all persons to whom the assessee or the exchange has paid in the previous year(s),

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- (1) any sum or aggregate sums in excess of two thousand rupees where the payment represents "differences" paid in settlement of contracts without actual delivery of stocks or commodities, and
- (2) any sum or aggregate sums in excess of ten thousand rupees where the payment represents sale price in connection with the transfer whether by way of sale, exchange or otherwise of assets or on whose behalf or from whom the assessee or the exchange has received any such sum and particulars of all such payments and receipts

(The question whether any payments or receipts relate to "capital assets" is a matter to be decided by the Income-tax Officer. The person required to make the statements should treat all payments and receipts as pertaining to capital assets.)

(Separate statements should be made for payments and receipts.)

| Serial No | Name and address of the persons to whom the payment was made or on whose behalf or from whom the payment was received | Particulars of the transaction in connection with which the payment was made or received | Amount paid or received | Date of payment or receipt | Whether paid or received in cash or by book adjustment |
|-----------|-----------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------|-------------------------|----------------------------|--------------------------------------------------------|
|           |                                                                                                                       |                                                                                          |                         |                            |                                                        |

Date

Signature

Address

\*

\*

FORM No 6

[See rule 13]

Application for extension of the date for furnishing a return of income under section 139 of the Income tax Act, 1961

To

The Income tax Officer,

Under section 139(1)/(2) of the Income-tax Act, 1961, I/we have to file the return of my/our income in respect of which I/we am/are assessable for the assessment year commencing on the 1st April, 19 , before 19 . For the reasons given below, it is not possible has not been possible for me/us to file the return before the said date —

2 It is, therefore, requested that time for furnishing the return may be extended up to

Dated 19

Signature

Name (in capital letters)

Address

NOTES 1 Delete the inappropriate words

2 The application should be signed by a person who is entitled to sign a return of income as provided in section 140 of the Income tax Act, 1961

### FORM No 7

[See rule 15]

### Notice of demand under section 136 of the Income-tax Act, 1961

To

Status

G I R No

This is to give you notice that for the assessment year a sum of Rs , details of which are given on the reverse, has been determined to be payable by you

Treasury Officer

Sub Treasury Officer

2 The amount should be paid to the at

Agent, State Bank of India

Reserve Bank of India

within 35 days of the service of this notice The previous approval of the

Inspecting Assistant Commissioner of Income-tax has been obtained for allowing a period of less than 35 days for the payment of the above sum A chalan is enclosed for the purpose of payment

3 If you do not pay the amount on or before the period specified above, you shall be liable to pay simple interest at four per cent per annum from the date commencing after the end of the period aforesaid in accordance with section 220(2)

4 If you do not pay the amount of tax within the period specified above, penalty (which may be as great as the amount of tax in arrear) may be imposed upon you after giving you a reasonable opportunity of being heard in accordance with section 221

5 If you do not pay the amount within the period specified above, proceedings for the recovery thereof will be taken in accordance with sections 222 to 229, 231 and 232 of the Income tax Act, 1961

6 The assessment has been made under section 144 of the Income tax Act, 1961, because you failed to—

make the return of income under section 139(2) and did not make a return or a revised return under section 139(4) or section 139(5)

comply with a notice issued under section 142(1)

comply with a notice issued under section 143(2)

However, if you were prevented by sufficient cause from making the return under section 139(2) or did not receive the notice issued under section 142(1) or section 143(2) or did not have a reasonable opportunity to comply, or were prevented by sufficient cause from complying, with the terms of a notice issued under section 142(1) or section 143(2), you may apply to me, within one month from the date of service of this notice, under section 146, to cancel the assessment and proceed to make a fresh assessment

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7 If you intend to appeal against the assessment  
fine  
penalty  
interest payable under section 216,

you may present an appeal under Part A of Chapter XX of the Income-tax Act, 1961, to the Appellate Assistant Commissioner of Income tax within thirty days of the receipt of this notice, in the form prescribed under section 249(1) of the said Act duly stamped and verified as laid down in that form

*Dated*

*Income-tax Officer*

*Place*

*Address*

---

NOTE —Delete inappropriate paragraphs and words

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| 1                                                                                                                                                                                                                | 2   | 3 | 4 | 5 | 6 | 7 | 8 | 9 |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|---|---|---|---|---|---|---|
| Section 22—House property                                                                                                                                                                                        | 160 |   |   |   |   |   |   |   |
| Section 23—Business or profession (give description of business, profession, etc., below)                                                                                                                        | 7   |   |   |   |   |   |   |   |
|                                                                                                                                                                                                                  |     |   |   |   |   |   |   |   |
|                                                                                                                                                                                                                  |     |   |   |   |   |   |   |   |
| Compensation—section 28 (1*)                                                                                                                                                                                     | 300 |   |   |   |   |   |   |   |
| Share of profits from registered firm                                                                                                                                                                            | 310 |   |   |   |   |   |   |   |
| Share of profits from unregistered firm and/or association of persons or body of individuals (taxed) and/or partnership profit from registered firm charged to tax in the hands of the firm under section 182(3) | 320 |   |   |   |   |   |   |   |
| Section 45—Capital gains—<br>Immovable property                                                                                                                                                                  | 170 |   |   |   |   |   |   |   |
| Machinery & plant                                                                                                                                                                                                | 180 |   |   |   |   |   |   |   |
| Others                                                                                                                                                                                                           | 190 |   |   |   |   |   |   |   |
| Section 56—Other sources—<br>Dividend                                                                                                                                                                            | 330 |   |   |   |   |   |   |   |
| Interest or other sums received under deduction of tax                                                                                                                                                           | 340 |   |   |   |   |   |   |   |
| Others                                                                                                                                                                                                           | 350 |   |   |   |   |   |   |   |
| TOTAL OF INCOME UNDER A                                                                                                                                                                                          |     |   |   |   |   |   |   |   |

| 1                                                                           | 2   | 3 | 4 | 5 | 6 | 7 | 8 | 9 |
|-----------------------------------------------------------------------------|-----|---|---|---|---|---|---|---|
| B INCOME ARISING OR ARISING ABROAD NOT INCLUDED IN 'A' ABOVE                |     |   |   |   |   |   |   |   |
| Business or profit gains                                                    | 170 |   |   |   |   |   |   |   |
| Others                                                                      | 180 |   |   |   |   |   |   |   |
| Total B INCOME                                                              |     |   |   |   |   |   |   |   |
| Deduct—(a) Compensation—section 28(a)                                       |     |   |   |   |   |   |   |   |
| (u) Capital gains                                                           |     |   |   |   |   |   |   |   |
| RETURN TOTAL INCOME                                                         |     |   |   |   |   |   |   |   |
| Adjustments to total income to arrive at total world income (give details)— |     |   |   |   |   |   |   |   |
| TOTAL WORLD INCOME                                                          |     |   |   |   |   |   |   |   |

| I                                                                            |  | Surcharge      |                |                |                |
|------------------------------------------------------------------------------|--|----------------|----------------|----------------|----------------|
|                                                                              |  | Income tax     |                | Super tax      |                |
|                                                                              |  | 2              | 3              | Union          |                |
|                                                                              |  | R <sub>2</sub> | R <sub>3</sub> | R <sub>4</sub> | R <sub>5</sub> |
| Average rate—<br>income tax—<br>super tax—                                   |  |                |                |                |                |
| Gross income tax, super tax and surcharge chargeable on reduced total income |  |                |                |                |                |
| Tax on compensation—section 28(1a)                                           |  |                |                |                |                |
| Tax on capital gains                                                         |  |                |                |                |                |
| (A) Total income tax                                                         |  |                |                |                |                |



| Code No                                                                                                                                                      | Amount                                                                                                                                                                                                                                        | Income tax     |                | Super-tax |    | Surcharge  |              |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|----------------|-----------|----|------------|--------------|
|                                                                                                                                                              |                                                                                                                                                                                                                                               | For I T relief | For S T relief | 2         | 3  | Union<br>4 | Special<br>5 |
| 1                                                                                                                                                            |                                                                                                                                                                                                                                               |                |                |           |    |            |              |
| Sums included in total income in respect of which in come tax, super tax, and/or surcharge is not payable or in respect of which rebate of tax is admissible |                                                                                                                                                                                                                                               |                |                |           |    |            |              |
| (a)                                                                                                                                                          | Under section 87(1)(c) and/or on account of recognised provident and superannuation funds                                                                                                                                                     |                |                | Rs        | nP | Rs         | nP           |
| (b)                                                                                                                                                          | On account of insurance premia                                                                                                                                                                                                                |                |                |           |    |            |              |
| (c)                                                                                                                                                          | Share from association of persons or from unregistered firm or body of individuals on the profits of which tax has already been paid or partnership profits from registered firm charged to tax in the hands of the firm under section 182(3) |                |                |           |    |            |              |
| (d)                                                                                                                                                          | Interest from income tax free securities                                                                                                                                                                                                      |                |                |           |    |            |              |
| (e)                                                                                                                                                          | Profits of co operative societies or dividends or other payment received out of such profits                                                                                                                                                  |                |                |           |    |            |              |
| (f)                                                                                                                                                          | Donations to charitable institutions or funds                                                                                                                                                                                                 |                |                |           |    |            |              |
| (g)                                                                                                                                                          | Dividends exempt from super tax under section 99(1)(iv)                                                                                                                                                                                       |                |                |           |    |            |              |
| (h)                                                                                                                                                          | Profits or gains derived from newly established industrial undertaking(s) or approved hotel(s)                                                                                                                                                |                |                |           |    |            |              |
| (i)                                                                                                                                                          | Dividends from new industrial undertaking(s) or approved hotel(s)                                                                                                                                                                             |                |                |           |    |            |              |
| (j)                                                                                                                                                          | Share of tax paid by registered firm                                                                                                                                                                                                          |                |                |           |    |            |              |
| Total amount upon which relief is due                                                                                                                        |                                                                                                                                                                                                                                               |                |                |           |    |            |              |

**Total amount upon which relief is due**

(2) Share of tax paid by registered firm

(\*) Dividends from new industrial undertaking(s) or approved hotel(s)

(h) Profits or gains derived from newly established industrial undertaking(s) or approved hotel(s)

(g) Dividends exempt from super tax under section 99(1)(iv)

(f) Donations to charitable institutions or funds

(e) Profits of co operative societies or dividends

section 182(3)

the profits of which tax has already been paid or partnership profits from registered firm

(c) Share from association of persons or from

funds

(a) Under section 87(1)(c) and/or on account of

income tax, super tax, and/or surcharge is not payable or in respect of which rebate of tax is admissible

[illegible]





## FORM No 9

[See rule 16]

Notice of demand under section 156 of the Income tax Act, 1961, for payment of tax provisionally assessed under section 141 of the Act

To

Status

G I R No

Please take notice that for the assessment year the sum of Rs has been determined to be payable by you under section 141 of the Income tax Act, 1961

Treasury Officer

Sub Treasury Officer

2 The amount should be paid to the

Agent, State Bank of India

Reserve Bank of India

at within 35 days of the service of this notice The previous approval of the Inspecting Assistant Commissioner of Income tax has been obtained for allowing a period of less than 35 days for the payment of the above sum A Chalan is enclosed for the purpose of payment

3 If you do not pay the amount on or before the period specified above, you shall be liable to pay simple interest at four per cent per annum from the date commencing after the end of the period aforesaid in accordance with section 220(2)

4 Further if you do not pay the amount within the period specified above, penalty (which may be as great as the amount of tax in arrear) may be imposed upon you after giving you a reasonable opportunity of being heard in accordance with section 221

5 If you do not pay the amount within the period specified above, proceedings for the recovery thereof will be taken in accordance with sections 222 to 229 and 231 to 233 of the Income-tax Act, 1961

Dated 19 Income-tax Officer

Place Address

NOTE—Delete the inappropriate words

## FORM No 10

[See rule 17]

Notice to the Income tax Officer under section 11 (2) of the Income tax Act, 1961

To

The Income tax Officer,

I,

, on behalf of

(name of the trust)

hereby bring to your notice that it has been decided by a resolution passed

by the trustees on \_\_\_\_\_ (date) (copy enclosed) that out of the **Div 3**  
 income of the trust for the previous year relevant to the assessment year **App II**  
 19 —19 and subsequent previous years, **Forms**  
 an amount of Rs \_\_\_\_\_ **10, 11**

\_\_\_\_\_ percentage of the income of the trust should be accumulated or set  
 such sum as is available at the end of the previous year  
 apart till the previous year ending \_\_\_\_\_ in order to  
 enable the trustees to accumulate sufficient funds for carrying out the  
 following purposes of the trust —

(1)

(2) etc

2 Before the expiry of one month commencing from the end of each  
 relevant previous year the amount so accumulated or set apart will be  
 invested in any Government security as defined in clause (2) of section 2  
 of the Public Debt Act, 1944, or in any other security approved by the  
 Central Government in this behalf

3 Copies of the annual accounts of the trust along with details of invest-  
 ments and utilisation, if any, of the money so accumulated or set apart will  
 be furnished to you before the 30th day of April every year

4 It is requested that in view of our complying with the conditions  
 laid down in section 11(2) of the Income tax Act, 1961, the benefit of that  
 section may be given in the assessments of the trust in respect of the incomes  
 accumulated or set apart as mentioned above

Date

(1) Signature

Designation

Address

---

NOTES —(1) This notice should be signed by a trustee  
 (2) Delete the inappropriate words

### FORM No 11

[ See rules 22(2)(i) and 22(4)(i) ]

Application for registration of a firm for the purposes of the Income-tax  
 Act, 1961

To

The Income tax Officer,

Re Assessment year 19 —19

1 We, on behalf of \_\_\_\_\_,

(name of the firm)

hereby apply for the registration of our firm for the purposes of the Income-tax  
 Act, 1961, for the assessment year 19 —19

2 The original of the instrument evidencing the partnership  
certified copy  
 together with a copy is enclosed The prescribed particulars are  
duplicate copy  
 given in the Schedule on the reverse

3 We do hereby certify that the profits (or loss, if any) of the  
 previous year were/will be \_\_\_\_\_ divided or credited as shown  
 period up to the date of dissolution were/will be \_\_\_\_\_  
 in the Schedule and that the information given above and in the Schedule  
 is correct

| <i>Date</i> | <i>Signature</i> | <i>Address</i> |
|-------------|------------------|----------------|
|             | 1                |                |
|             | 2                |                |
|             | 3                |                |
|             | 4                |                |

### SCHEDULE

Particulars of the firm as constituted at the date of this application and of the shares of the partners in the income (or loss) of the firm and, where the application is made after the end of the previous year, of the apportionment of the income (or loss) of the firm between the partners for the relevant previous year

| Name of partner | Address | Date of admittance to partnership | *Interest on capital or loans (if any) | * Salary, commission or other remuneration from firm | †Share in the balance of profits (or loss) percentage | Remarks |
|-----------------|---------|-----------------------------------|----------------------------------------|------------------------------------------------------|-------------------------------------------------------|---------|
| 1               | 2       | 3                                 | 4                                      | 5                                                    | 6                                                     | 7       |
|                 |         |                                   |                                        |                                                      |                                                       |         |

NOTES —\*If the interest, salary, commission and/or other remuneration is payable (or allowable) only if there are sufficient profits available this fact should be noted by marking the items in the appropriate columns with the letter "R" (In other cases the interest, salary, commission and/or other remuneration may exceed the total profits so as to leave a balance of net loss divisible in column 6)

†If any partner is entitled to share in profits but is not liable to bear a similar proportion of any losses this fact should be indicated by putting against his share in column 6 the letter "P"

### FORM No 11-A

[See rules 22(2)(i), 22(3) and 22(4)(i)]

Application for registration of a firm for the purposes of the Income-tax Act,  
1961

To  
 The Income tax Officer,

Re Assessment year 19 —19

I We, on behalf of

(name of the firm)

hereby apply for the registration of our firm for the purposes of the Income tax Act, 1961, for the assessment year 19 —19

2 The original of the instrument or instruments evidencing the partnership in existence from time to time during the previous year up to the date of this application, together with a copy of each is enclosed The prescribed particulars are given in the Schedule on the reverse

3 We do hereby certify that the profits (or loss, if any) of the previous year were/will be divided or credited as shown period up to the date of dissolution were/will be in the Schedule and that the information given above and in the Schedule is correct

Dated

Signature

Address

1

2

3

4

## SCHEDULE

| Name of partner | Address | Date of admittance to partnership | *Interest on capital or loans (if any) | *Salary, commission or other remuneration from firm | †Share in the balance of profits (or loss) percentage | Remarks |
|-----------------|---------|-----------------------------------|----------------------------------------|-----------------------------------------------------|-------------------------------------------------------|---------|
| 1               | 2       | 3                                 | 4                                      | 5                                                   | 6                                                     | 7       |

(A) Particulars of the firm as constituted at the date of this application and of the shares of the partners in the income (or loss) of the firm

|  |  |  |  |  |  |  |
|--|--|--|--|--|--|--|
|  |  |  |  |  |  |  |
|--|--|--|--|--|--|--|

(B) Particulars of the apportionment of the income (or loss) of the firm for the relevant previous year between the partners who in that previous year were entitled to share in such income (or loss) (Applicable where the application is made after the end of the relevant previous year)

|  |  |  |  |  |  |  |
|--|--|--|--|--|--|--|
|  |  |  |  |  |  |  |
|--|--|--|--|--|--|--|

NOTES — \*If the interest, salary, commission or other remuneration is payable (or allowable) only if there are sufficient profits available this fact should be noted by marking the items in the appropriate columns with the letter "R" (In other cases the interest, salary, commission or other remuneration may exceed the total profits so as to leave a balance of net loss divisible in column 6)

†If any partner is entitled to share in profits but is not liable to bear a similar proportion of any losses this fact should be indicated by putting against his share in column 6 the letter "P"

Div 3  
App II  
Forms  
12, 13

## FORM No 12

[See rule 24]

Declaration under section 184(7) of the Income-tax Act, 1961, for continuation of registration

To

The Income tax Officer,

Re \*Assessment year 19 —19

We, on behalf of \_\_\_\_\_, declare that —  
(name of firm)

- (i) our firm was granted registration for the assessment year 19 —19, vide order dated \_\_\_\_\_, 19 —, passed by the Income tax Officer \_\_\_\_\_, and
- (ii) there has been no change in the constitution of the firm or the shares of the partners since the last day of the previous year relevant to the assessment year 19 —19 up to the last date of the previous year relevant to the assessment year 19 —19 †[or to the date ( 19 ) of dissolution of the firm]

We further declare that the information given above is correct and complete

| Dated | Signatures | Addresses |
|-------|------------|-----------|
|       | 1          |           |
|       | 2          |           |
|       | 3          |           |
|       | 4          |           |

Notes — \*Here mention the assessment year for which the continuation of the registration already granted is applied for

‡Here mention the last assessment year for which registration was granted under section 185(1)

†These words are applicable only if the firm has been dissolved before the date of this declaration

## FORM No 13

[See rule 28(1)]

Application by a person other than a company for a certificate under section 197(1) of the Income-tax Act, 1961, relating to deduction of tax from interest on securities

To

The Income-tax Officer,

\*I, \_\_\_\_\_, of \_\_\_\_\_, do hereby declare that my  $\frac{\text{total income}}{\text{total world income}}$  computed in accordance with the provisions of the Income-tax Act, 1961, for the previous year relevant to the assessment year 19 —19 (including the interest on securities particulars of which are



given in the Schedule hereto)  $\frac{\text{was less than the minimum liable to income tax}}{\text{amounted to Rs}}$

Div. 3  
App II  
Form 13

and I have no reason to expect that my  $\frac{\text{total income}}{\text{total world income}}$  for the previous years relevant to the three assessment years next following will increase substantially

\*I, \_\_\_\_\_, the trustee/co trustee of \_\_\_\_\_, do hereby declare that the securities (particulars of which are given in the Schedule hereto) are property held under trust wholly for charitable or religious purposes and that the interest therefrom qualifies for exemption under sections 11 and 13 of the Income-tax Act, 1961, and that not less than 75 per cent of the income shall be applied for charitable or religious purposes as required by sub-section (1) read with sub-section (3) of section 11 of the said Act

I, therefore, request that a certificate may be issued to the person responsible for paying the interest on the said securities authorising him not to deduct income tax or super tax.

$\frac{\text{to deduct income tax and super tax at the rates of}}{\text{at the time of payment of such interest}}$  per cent and per cent

Date

Signature

Address

\*I hereby declare that I am  $\frac{\text{resident}}{\text{resident but not ordinarily resident}} \frac{\text{non resident}}{\text{in India}}$

I hereby further declare that what is stated in this application is correct

Date

Signature

Address

#### SCHEDULE

| Description of securities | Numbers of securities | Dates of securities | Amounts of securities |
|---------------------------|-----------------------|---------------------|-----------------------|
| (1)                       | (2)                   | (3)                 | (4)                   |
|                           |                       |                     |                       |
|                           |                       |                     |                       |
|                           |                       |                     |                       |
|                           |                       |                     |                       |

NOTE — \*Delete the inappropriate paragraphs and words

Div 3  
App II  
Form 14

FORM No 14

[See rule 28(2)]

Application for a certificate under the proviso to section 194 of the Income tax Act, 1961, relating to deduction of income tax from dividends

To

The Income-tax Officer

Sir,

\*I, \_\_\_\_\_, of \_\_\_\_\_, do hereby declare —

- (i) that my total income/total world income computed in accordance with the provisions of the Income tax Act, 1961, during the year ending on the 31st day of March, 19\_\_\_\_, (including dividends from shares, the particulars of which are given in the Schedule hereto) was less than the minimum liable to income-tax and that I have no reason to expect that my  $\frac{\text{total income}}{\text{total world income}}$  during the three years next following will exceed the minimum amount aforesaid, and
- (ii) that the said shares stand in my name and are beneficially owned by me, and the dividends therefrom are not includible in the total income of any other person under sections 60 to 64 of the Income tax Act, 1961

\*I, \_\_\_\_\_, the trustee/co-trustee of \_\_\_\_\_, do hereby declare that the shares (particulars of which are given in the Schedule hereto) are property held under trust wholly for charitable or religious purposes and that the dividends thereof qualify for exemption under sections 11 and 13 and that not less than 75% of the income shall be applied for charitable or religious purposes as required by sub section (1) read with sub-section (3) of section 11 of the said Act

I, therefore, request that a certificate may be issued to each of the principal officers responsible for paying the dividends on the said shares authorising him to pay the amount of such dividends without deduction of tax

Date

Signature

Address

\*I hereby declare that I am resident  
resident but not ordinarily resident in India  
non resident

I hereby further declare that what is stated in this application is correct

Date

Signature

Address

## SCHEDULE

Div 3  
App II  
Forms  
14, 14-A

| Serial No | Name and address of the company | No of shares | Class of shares and face value of each share | Total face value of shares | Distinctive Nos of share certificates |
|-----------|---------------------------------|--------------|----------------------------------------------|----------------------------|---------------------------------------|
| 1         | 2                               | 3            | 4                                            | 5                          | 6                                     |
|           |                                 |              |                                              |                            |                                       |

Signature

NOTE — \*Delete the inappropriate paragraphs and words

## FORM No 14-A

[See rule 28]

Application for a certificate under section 197(1)(b) of the Income-tax Act, 1961, relating to deduction of super-tax from dividends paid to a non resident

To

The Income tax Officer,

Sir,

\*I, \_\_\_\_\_, of \_\_\_\_\_, do hereby declare —

- (i) that my total income and total world income computed in accordance with the provisions of the Income-tax Act, 1961, during the year ending on the 31st day of March, 19\_\_\_\_, (including dividends from shares, the particulars of which are given in the Schedule less than the minimum liable to super tax

hereto) was \_\_\_\_\_ and I

amounted to Rs \_\_\_\_\_ and Rs \_\_\_\_\_ respectively

have no reason to expect that my total income and total world income during the three years next following will exceed

said minimum  
the \_\_\_\_\_,  
Rs \_\_\_\_\_ and Rs \_\_\_\_\_ respectively

- (ii) that the said shares stand in my name and are beneficially owned by me, and the dividends therefrom are not includible in the total income of any other person under sections 60 to 64 of the Income-tax Act, 1961

\*I, \_\_\_\_\_, the trustee/co-trustee of \_\_\_\_\_, do hereby declare that the shares (particulars of which are given in the Schedule hereto) are property held under trust wholly for charitable or religious purposes and that the dividends thereof qualify for exemption under sections 11 and 13 and that not less than 75% of the income shall be applied for charitable or religious purposes as required by sub section (1) read with sub-section (3) of section 11 of the said Act

I, therefore, request that a certificate may be issued to each of the principal officers responsible for paying the dividends on the said shares

Div 3 authorising him to pay the amount of such dividends without deduction  
 App II of super-tax or after deduction of super-tax at the rate of  
 Forms per cent and the sucharges thereon  
 14-A, 15

Date

Signature

Address

I hereby declare that I am non-resident in India

I hereby further declare that what is stated in this application is correct

Date

Signature

Address

### SCHEDULE

| Serial No | Name and address of the company | No of shares | Class of shares and face value of each share | Total face value of shares | Distinctive Nos of share certificates |
|-----------|---------------------------------|--------------|----------------------------------------------|----------------------------|---------------------------------------|
| 1         | 2                               | 3            | 4                                            | 5                          | 6                                     |
|           |                                 |              |                                              |                            |                                       |

Signature

NOTE —\*Delete the inappropriate paragraphs and words

FORM No 15

[See rule 29]

Certificate under the proviso to section 194 and/or section 197(1)(b) of the  
 Income tax Act, 1961, relating to deduction of tax from dividends

Income-tax Office,

Date

19

To

Certificate No

The Principal Officer,

(Name of company)

(Address of company)

\*I hereby authorise you to pay without deduction of income-tax or super tax the dividend, payable by your company on the undermentioned shares registered in the name of

†2 I hereby authorise you to pay the dividend payable by your company on the undermentioned shares registered in the name of

after deducting income tax at the rates in force and super-tax at the rate of \_\_\_\_\_ per cent (with Union surcharge at \_\_\_\_\_ per cent and special surcharge at \_\_\_\_\_ per cent on income tax and super-tax) Div 3  
App II  
Forms  
15, 16

3 This certificate shall remain in force up to \_\_\_\_\_ unless it is cancelled by me under intimation to you, before that date

4 The certificate shall cease to be operative in respect of any of the shares mentioned herein which are transferred by the present holder to any other person, from the date the company receives notice of such transfer

## DESCRIPTION OF SHARES

| Serial No | No of shares | Class and face value of each share | Total face value of shares | Distinctive Nos of share certificates |
|-----------|--------------|------------------------------------|----------------------------|---------------------------------------|
|           |              |                                    |                            |                                       |

(Seal)

Income tax Officer

NOTES —\* Applicable in the case of certificates issued under the proviso to section 194

† Applicable in the case of certificates issued under section 197(1)(b)

## FORM No 16

[ See rule 31(1) ]

Certificate of deduction of tax from income chargeable under the head "Salaries"

Certificate No .

Name of employer

Address of employer

Name of employee

Certified that a sum of Rs \_\_\_\_\_ has been deducted under section 192 of the Income tax Act, 1961, from the income chargeable under the head "Salaries" paid to the abovenamed employee during the month of \_\_\_\_\_ as per particulars below —

Amount of income chargeable under the head "Salaries" \_\_\_\_\_ Rs

## Particulars of tax deducted

|                              |    |
|------------------------------|----|
| (i) Income tax               | Rs |
| (ii) Surcharge on income tax | Rs |
| (iii) Super-tax              | Rs |
| (iv) Surcharge on super tax  | Rs |
| (v) Total                    | Rs |

(Signature of the person responsible for paying the salary)

Dated

Designation

Div 3  
App II  
Form 17

FORM No 17  
[ See rule 31(2) ]

Certificate of deduction of tax from the interest on bearer bonds  
Promissory notes/stock certificates/Subsidiary General Ledger Account Balance

Dividend No of coupon

Draft No

† Number of receipt for interest

Certified that a sum of Rs \_\_\_\_\_ has been  
deducted as specified below —

|          |                                        |
|----------|----------------------------------------|
| (i) Rs   | being income-tax at the rate of _____, |
| (ii) Rs  | being Union surcharge thereon,         |
| (iii) Rs | being special surcharge thereon,       |
| (iv) Rs  | being super-tax at the rate of _____,  |
| (v) Rs   | being Union surcharge thereon,         |
| (vi) Rs  | being special surcharge thereon,       |

from the interest coupons for Rs \_\_\_\_\_ presented for payment by the draft  
on the interest receipt

of this date, from Rs \_\_\_\_\_ being the amount of interest on  
bearer bonds

Govt promissory notes/stock certificates/Subsidiary General Ledger Account Balance  
for Rs \_\_\_\_\_ of the \_\_\_\_\_ per cent loan of

said to be the property of \_\_\_\_\_  
standing in the name of \_\_\_\_\_

(Name of the office paying interest)

Signature

Dated

19

(Designation of the official paying interest)

† This number should also appear in the interest cages on the back of Government  
Promissory notes

(To be signed by the claimant)

I hereby declare that

bearer bonds

Govt promissory notes/stock certificates/Subsidiary General Ledger Account Balance  
on which interest, as above specified, has been received

were my own property

were the property of \_\_\_\_\_ and were  
\_\_\_\_\_ of which I am the principal officer

(name of the company)

in the possession of \_\_\_\_\_ at the time when tax was deducted

Date

Signature

NOTES — (1) Delete the inappropriate words

(2) The securities or in the case of a Subsidiary General Ledger Account Balance,  
a certificate from the Public Debt Office or office of the Reserve Bank of  
India concerned, to be produced, when required in support of any claim

(3) This certificate should not be returned to the Public Debt Office. In case  
you desire to claim a refund of the whole or any part of the tax deducted  
as shown above, on the ground that your total annual income is below the  
taxable limit or is liable to income tax at a rate which is less than the rate  
at which tax has been deducted, you should send this certificate to the  
Income tax Officer direct with an application in the prescribed form  
obtainable from that office

Div 3  
App II  
Form 18

Certificate (1) of deduction of tax from debentures or other securities for money of a local authority or a company or a corporation established by a Central, State or Provincial Act

**Address**

To (2)

Name and address of payee (3)

I/We hereby certify that the sum of Rs                  has been deducted  
as specified below —

|          |                                  |   |
|----------|----------------------------------|---|
| (i) Rs   | being income tax at the rate of  | , |
| (ii) Rs  | being Union surcharge thereon,   |   |
| (iii) Rs | being special surcharge thereon, |   |
| (iv) Rs  | being super-tax at the rate of   | , |
| (v) Rs   | being Union surcharge thereon,   |   |
| (vi) Rs  | being special surcharge thereon, |   |

from Rs \_\_\_\_\_ being the amount of interest at the rate of \_\_\_\_\_  
per cent per annum due on \_\_\_\_\_ (4) on debentures Nos \_\_\_\_\_ of \_\_\_\_\_  
Rs \_\_\_\_\_ each of the \_\_\_\_\_ (5) and that it has been  
or will be, within the prescribed period, paid by me/us to the Central  
Government at \_\_\_\_\_

*Date* \_\_\_\_\_ *Superintendent, Public Debt Office,*  
*or Principal Officer or Managing Agents*

(To be signed by claimant)

I hereby declare that the securities on which interest as above specified has been received, (6) were my own property \_\_\_\_\_ of which I am the principal officer (name of company)

and were in the possession of \_\_\_\_\_ at the time when the tax was deducted

*Date* *Signature*

*Designation*

**NOTES** —(1) In the case of bearer debentures or bonds a certificate under section 203 shall only be given if the recipient of the interest declares the name and address of the real owner of the security at the time of receiving the interest

(2) Name and address of the owner of security should be given here. In the case of bearer debentures or bonds, these particulars are to be given as declared by the payee concerned.

(3) To be completed only in the case of bearer debentures or bonds

(4) The date on which interest is payable

(5) Here enter the name of the local authority, company or corporation.

(6) Delete the inappropriate words

(7) The securities to be produced when required in support of any claim

Div 3  
App II  
Form 19

## FORM No 19

[See rule 31(4)]

**Certificate of deduction of tax from dividends under section 203 of the  
Income tax Act, 1961**

Name of the company

Dividend warrant No

Date

Address

Name and address of the shareholder

Status

(See foot note 2)

Warrant for Rs                      being the amount of dividend payable after  
deduction of tax on                      (here give number and description  
of shares) to the shareholder mentioned above

I/We certify

- (i) that dividend/interim dividend at the rate of Rs                      (in words and figures) per share was declared at the (here give the number and nature of meeting) meeting held on (date) to consider the accounts of the company in respect of the accounting year/period ending on (date)
- (ii) that on                      per cent of the dividend, no tax has been deducted as the corresponding amount of dividend has been paid out of profits and gains held to be exempt under section 85 or sub section (2) of section 101 of the Income-tax Act, 1961, read with rule 20 of the Income-tax Rules, 1962
- (iii) that the tax as detailed below has been deducted from the amount of dividend

**DETAILS OF TAX DEDUCTION**

|                                                           | Rs   |        |
|-----------------------------------------------------------|------|--------|
| 1 The amount of dividend from which tax has been deducted |      |        |
| 2 Amount of tax deducted (see foot notes 3 and 4)         |      |        |
|                                                           | Rate | Amount |
| Income tax                                                |      |        |
| Union surcharge                                           |      |        |
| Special surcharge                                         |      |        |
| Super tax                                                 |      |        |
| Union surcharge                                           |      |        |
| Special surcharge                                         |      |        |
| Total tax deducted                                        |      |        |

- (iv) that the tax deducted as above has been paid on                      (date) or will be paid within a week commencing from the date of this certificate to the Central Government

(v) I/We further certify  
(see foot note 5)

- (a) that the total profits and gains of the company for the aforesaid year/period amounted to Rs



- (b) that the profits and gains of the company for the aforesaid year/period assessable to agricultural income tax by the Government of [and included] amounted to Rs Div 3  
App II  
Form 19
- (c) the percentage of agricultural profits to total profits [percentage of (b) to (a)] was
- (d) that the agricultural income-tax (including super-tax) chargeable at the rates of on agricultural profits [(b) above] has been/will be paid by me/us to the Government of

*Signature of the Principal Officer*

*For*

(name of the company)

(To be signed by the claimant)

I hereby certify that the dividends above mentioned relate to the shares  
my own property  
which were \_\_\_\_\_  
the property of \_\_\_\_\_ of which I am the principal officer  
(name of the company)  
at the time when the dividend was declared/during the period from \_\_\_\_\_  
to \_\_\_\_\_ /on \_\_\_\_\_ (date), and were in the  
possession of \_\_\_\_\_

*Signature*

*Date*

NOTES —(1) The entire amount of dividends declared in a meeting held to consider the accounts of the company in respect of a previous year the profits of which are assessable in 1962-63, or in a subsequent year will constitute "dividends declared or payable in respect of the previous year relevant to the assessment year 1962-63 or such subsequent year"

- (2) In the case of a shareholder, other than a company, whom the principal officer has no reason to believe to be "Resident" in India, the status should be shown as "Not resident". The status of any other shareholder, not being a company, should be shown as "Resident"

In the case of a shareholder which is a company, the status should be shown as "Indian" company if it is incorporated in India, and as a "Foreign" company, if it is incorporated outside India

- (3) Income tax and super tax are to be deducted in each case at the "rates in force"

- (4) Where—

(a) no tax has been deducted in view of the provisions of section 196, or in accordance with an exemption certificate issued by the Income tax Officer under the proviso to section 194, or

(b) super tax has been deducted at rates lesser than the rates in force in accordance with a certificate issued by the Income tax Officer under section 197(1)(b), or

(c) in view of the determination by the Income tax Officer under section 197(3), no tax has been deducted on the whole or any portion of the dividend,

the amounts in item (iii) of the certificate should be shown at nil or at the appropriate figures and the specific reason therefor should be given with details (for example, number, date and office of issue of certificate or Income tax Officer's determination, etc.), as a foot note or annexure to the certificate

- (5) These certificates shall be furnished where a company pays to a shareholder any dividend, wholly or partly, out of its profits and gains assessed to agricultural income tax by any State Government. In other cases this portion may be omitted



FORM No 21

[See rule 32]

**Monthly return of income chargeable under the head "Salaries" paid and tax deducted at source therefrom for the month of 19**

Name of employer

Address

Name of person responsible for paying the salary, etc (if not the employer)

Address

| Name of the employee | Whether married, with no child, or married, with one child, or married, with more than one child, or unmarried | Salaries paid or due during the month |                               | Amount of tax deducted |                                                   |                  |                               |                         |                               |                  |                               |                        |                               | Date on which tax deducted has been paid to the credit of Government | Remarks |
|----------------------|----------------------------------------------------------------------------------------------------------------|---------------------------------------|-------------------------------|------------------------|---------------------------------------------------|------------------|-------------------------------|-------------------------|-------------------------------|------------------|-------------------------------|------------------------|-------------------------------|----------------------------------------------------------------------|---------|
|                      |                                                                                                                |                                       |                               | Pay and allowances     | Other income chargeable under the head "Salaries" | Income tax       |                               | Surcharge on income tax |                               | Super tax        |                               | Surcharge on super tax |                               |                                                                      |         |
|                      |                                                                                                                | During the month                      | Up to and including the month |                        |                                                   | During the month | Up to and including the month | During the month        | Up to and including the month | During the month | Up to and including the month | During the month       | Up to and including the month |                                                                      |         |
|                      |                                                                                                                | 1                                     | 2                             | 3                      | 4                                                 | 5                | 6                             | 7                       | 8                             | 9                | 10                            | 11                     | 12                            |                                                                      |         |

I, \_\_\_\_\_, being the person responsible for paying the above salaries, etc, do hereby declare that the above particulars are correct

Date

Signature

Address

NOTES -- 1 Salary includes wages, annuities, pensions, gratuities, fees, commissions, perquisites or profits in lieu of or in addition to salary and wages including payments made at or in connection with the termination of employment and advances of salary, etc, paid or due during the month. It also includes leave salary or allowance paid outside India, periodical cash allowances like house rent allowance, entertainment allowance, value of rent free accommodation or concession in rent, value of perquisite of free conveyance, employer's contribution to a recognised provident fund in excess of 10% of salary and interest credited to the employee's account in the recognised provident fund in excess of 1/3rd of the salary or in excess of the prescribed rate of interest. For further details, see sections 15 to 17 of the Income tax Act, 1961.

2 In the case of an employee who has left the service of the employer, the name and address of the next employer should be given, wherever possible, in the remarks column

3 In the case of a new employee, the word "new" should be entered in the remarks column in the first month, and, if possible, the name and address of the former employer should be indicated therein

Div 3  
App II  
Forms  
2, 23

## FORM No 22

[See rule 33]

Statement of tax deducted at source from contributions repaid to employees  
in the case of an approved superannuation fund

- 1 Name of the superannuation fund
- 2 Name and address of the employee
- 3 The period for which the employee has contributed to the superannuation fund
- 4 The amount of contributions repaid—  
(a) principal  
(b) interest
- 5 The average rate of deduction of income-tax and super-tax during the preceding three years
- 6 Amount of income tax and super-tax deducted on repayment

We, the trustees of  
that the above particulars are correct

, do hereby declare

*Signature*

*Date*

## FORM No 23

[See rule 34]

Certificate of deduction of tax at source from income chargeable under the  
head "Salaries" for the month of 19

Name of employer

Address

Name of person responsible for paying the salary,  
etc (if not the employer)

Address

Certified that an amount of Rs has been  
deducted under section 194 of the Income-tax Act, 1961, from income charge  
able under the head "Salaries" paid to the employees of  
in respect of the month of

19 and that the said amount was paid over to the credit of the  
Central Government vide chalan No dated

Treasury  
Sub Treasury  
in the State Bank of India at  
Reserve Bank of India

*Signature of the person responsible  
for paying the "Salaries"*

*Place*

*Date*

*Address*

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Form 24

| Salary, bonus and all other sums (taxable under Chapter IV A) which were due to be paid during the year but were not actually paid (full details showing the amount, due date, period for which the amount was payable, to be given for each item separately) | Value of rent free accommodation or value of any concession in rent for the accommodation provided by the employer (give basis of computation, state also whether the accommodation is furnished or unfurnished) | Where a free conveyance has been provided by the employer, estimated value of the perquisites (give details) | Remuneration paid by employer for domestic services provided to the employee (give details) | Value of free or concessional passages on home leave, and other travelling provided by the employer (give details) | Estimated value of any other benefit or amenity provided by the employer free of cost or at concessional rate, not included in the preceding columns (give details) | Employer's contribution to recognised provident fund in excess of 10% of the employee's salary | Interest credited to the assessee's account in recognised provident fund in excess of 1/3 of the salary or in excess of the rate fixed by the Central Government | Total of cols 7, 8, 10 to 17 | Amount of entertainment allowance (in col 8) which is deductible u/s 16 and amount included in col 14 which is exempt u/s 10(5) and (6) |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------|
| 10                                                                                                                                                                                                                                                            | 11                                                                                                                                                                                                               | 12                                                                                                           | 13                                                                                          | 14                                                                                                                 | 15                                                                                                                                                                  | 16                                                                                             | 17                                                                                                                                                               | 18                           | 19                                                                                                                                      |

| Net amount taxable under Chapter IV A for the year (cols 18 19) | Tax payable on col 20 |     |     |     | Yearly amounts paid by the employee in respect of provident fund contributions and life insurance premiums (give details) (1) | Amount of rebate allowed |     | Total amount of tax deducted during the year |     |     |     |                        | Remarks |
|-----------------------------------------------------------------|-----------------------|-----|-----|-----|-------------------------------------------------------------------------------------------------------------------------------|--------------------------|-----|----------------------------------------------|-----|-----|-----|------------------------|---------|
|                                                                 | I T                   | S C | S T | S C |                                                                                                                               | I T                      | S C | I T                                          | S C | S T | S C | Total of cols 28 to 31 |         |
| 20                                                              | 21                    | 22  | 23  | 24  | 25                                                                                                                            | 26                       | 27  | 28                                           | 29  | 30  | 31  | 32                     | 33      |

I certify that—

(i) the above statement contains a complete list of the total amount chargeable under the head "Salaries" paid by March, 19 , at the rate of Rs per annum (being Rs 600 less than the taxable minimum prescribed by the Finance Act for the year) or who have received or to whom was due during the year ended on that day not less than the aforesaid sum in respect of salary, wages, annuity, gratuity, fees, commission, perquisites or profits in lieu of or in addition to salary, or wages, advances of salary, payments at or in connection with retirement or any other sums chargeable to income-tax under the head "Salaries", and (b) to all persons from whose salaries any tax was deducted during the year ended on the 31st day of March, 19 ,

(ii) all the particulars furnished above are correct, and

(iii) the amount of tax shown in column 32 has been paid over to the credit of the Central Government

Dated

Signature of person by whom the return is delivered at

Designation

NOTES —(1) The amount withdrawn from the provident fund account for the payment of life insurance premium should not be included in this column and should be shown separately against the name of each employee in the Remarks column No 33

(2) Where an employer deducts from the emoluments paid to an employee or pays on his behalf any contributions of that employee to any approved superannuation fund, all such deductions or payments shall be included in the above statement

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App II  
Form 2

Div 3  
App II  
Form 25

FORM No 25

[See rule 37(1)]

Statement of deduction of tax from interest on securities where deduction is not made by or on behalf of Government

- 1 Description of securities
- 2 Numbers of securities
- 3 Dates of securities
- 4 Amounts of securities on which interest is paid
- 5 Period for which interest is paid
- 6 Amount of interest and tax deducted at source

| Amount of interest                                                                                                                                      | Tax deducted |                         |         |           |                        |         |
|---------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|-------------------------|---------|-----------|------------------------|---------|
|                                                                                                                                                         | Income tax   | Surcharge on income tax |         | Super tax | Surcharge on super tax |         |
|                                                                                                                                                         |              | Union                   | Special |           | Union                  | Special |
| (a) <i>From interest payable to companies —</i><br>Name and address of the company<br>1<br>2<br>3<br>4 <i>etc</i><br><br>TOTAL—(A)                      |              |                         |         |           |                        |         |
| (b) <i>From interest payable to persons other than companies —</i><br>Name and address of the recipient<br>1<br>2<br>3<br>4 <i>etc</i><br><br>TOTAL—(B) |              |                         |         |           |                        |         |
| (c) GRAND TOTAL—(A) & (B)                                                                                                                               |              |                         |         |           |                        |         |

7 Date on which tax was deducted

8 Date on which tax deducted was paid to the credit of the Central Government (here give also the numbers and dates of the chalanghs through which tax was paid)

I,  
ment is correct and complete

, certify that the above state

Date

Signature of the person making  
the deduction

## FORM No 26

[See rule 37(2)]

Div 3  
App II  
Form 26Statement of deduction of tax under section 194 of the Income tax Act, 1961,  
from dividends

- 1 Name and address of the company
- 2 Date of declaration, distribution or payment of dividends
- 3 Period in respect of which dividend has been declared
- 4 Amount of dividend (before deduction of tax) as per the following details —

| Nature of share capital | Amount of paid up capital | Rate of dividend | Amount of dividend | Amount payable to |                              |
|-------------------------|---------------------------|------------------|--------------------|-------------------|------------------------------|
|                         |                           |                  |                    | companies         | persons other than companies |
| Ordinary                |                           |                  |                    |                   |                              |
| Preference              |                           |                  |                    |                   |                              |
| (a) Tax free            |                           |                  |                    |                   |                              |
| (b) Taxable             |                           |                  |                    |                   |                              |
| TOTAL                   |                           |                  |                    |                   |                              |

## 5 Deduct amount on which no deduction was made —

- (i) Amount attributable to that part of the income of the company on which no tax was payable under sections 85 and 101(2) as determined by the Income-tax Officer under section 197(3)
- (ii) Amount covered by certificates issued under the proviso to section 194
- (iii) Amount on which no deduction was to be made in view of the provisions of section 196

TOTAL

## 6 Amount on which tax was deducted under section 194(4-5)

## 7 Amount on which super-tax was deducted at rates lesser than the rates in force according to certificates issued under section 197(1)(b)

## 8 Amount of tax deducted

Income-tax

Union surcharge

Special surcharge

Super-tax

Union surcharge

Special surcharge

TOTAL AMOUNT OF DEDUCTION



I  
26

- 9 Date on which tax deducted was paid to the credit of the Central Government (here give also the Nos and dates of Chalans through which payment was made )

I, \_\_\_\_\_, hereby certify that the  
above particulars are correct and complete

*Date*

*Signature*

*Designation*

## FORM No 27

[See rule 37(3)]

Statement of deduction of tax from interest, dividends or any other sum payable to (i) persons, not being companies, who are non-resident or resident but not ordinarily resident, and (ii) companies which are neither Indian companies nor companies which have made the prescribed arrangements for the declaration and payment of dividends within India

| Serial<br>No | Name and<br>address<br>of the<br>recipient | Date of payment<br>and in the case<br>of dividend<br>the date of<br>declaration of<br>dividend by<br>the company | Nature<br>of<br>payment | Amount<br>payable<br>before<br>deduction<br>of tax | Amount of tax deducted |    |                         |    |         |    |           |    |                        |         |    |    |
|--------------|--------------------------------------------|------------------------------------------------------------------------------------------------------------------|-------------------------|----------------------------------------------------|------------------------|----|-------------------------|----|---------|----|-----------|----|------------------------|---------|----|----|
|              |                                            |                                                                                                                  |                         |                                                    | Income tax             |    | Surcharge on income tax |    |         |    | Super tax |    | Surcharge on Super-tax |         |    |    |
|              |                                            |                                                                                                                  |                         |                                                    | @                      | Rs | Union                   |    | Special |    | @         | Rs | Union                  | Special |    |    |
|              |                                            |                                                                                                                  |                         |                                                    |                        |    | @                       | Rs | @       | Rs |           |    |                        |         | @  | Rs |
| 1            | 2                                          | 3                                                                                                                | 4                       | 5                                                  | 6                      | 7  | 8                       | 9  | 10      | 11 | 12        | 13 | 14                     | 15      | 16 | 17 |

## A Recipients who are companies

1  
2  
3 etc  
TOTAL

## B Recipients who are not companies

1  
2  
3 etc  
TOTAL

C GRAND TOTAL  
(A+B)

Date on which the tax deducted was paid to the credit of the Central Government  
give also the Nos and dates of the Chalang through which tax was paid )

I, , certify that the above particulars are correct and complete

Date

Signature of the person making the deduction

Div 3  
App II  
Form 28

FORM No. 28

[Sec. rule 38]

Notice of demand under section 156 of the Income-tax Act, 1961, for payment of advance tax under section 210 of the Act

To

This is to give you notice under section 210 of the Income tax Act, 1961, that the sum of Rs. \_\_\_\_\_ as specified in the enclosed order has been determined to be payable by you during the financial year 19\_\_\_\_—19\_\_\_\_

\*2 Whereas after issue of the previous notice of demand served on you on \_\_\_\_\_ your assessment is \_\_\_\_\_ an assessment of the registered firm in which you are a partner for a previous year later than that referred to in the order under section 210(1), dated 19\_\_\_\_, has been completed, the sum payable by you as advance tax has been re-determined to be Rs. \_\_\_\_\_ as specified in the enclosed order

3 The amount is payable in \_\_\_\_\_ equal instalment(s) on or before the 1st June, the 1st September, 1st December, 19\_\_\_\_, and 1st (15th)†

March, 19\_\_\_\_, respectively to Treasury Officer  
Sub Treasury Officer at \_\_\_\_\_ when,  
Agent, State Bank of India  
Reserve Bank of India

if the amount is paid, you will be granted a receipt

Chalan(s)\* is/are enclosed for the purpose in which you should enter the amount of each instalment at the time of payment. If this notice of demand is served on you after any of the dates on which the instalments specified herein are payable, the whole tax is payable in equal instalments on the dates which fall after the service of the notice or in one instalment if the notice is served after the 1st day of December, 19\_\_\_\_

4 If at any time before the last instalment as aforesaid is due you estimate that your income subject to advance tax for the previous year relevant to the assessment year commencing on the 1st day of April, 19\_\_\_\_, is less than the income on which you have been asked to pay advance tax as above and accordingly you wish to pay an amount less than the amount which you have been so required to pay, you may send to the Income tax Officer (i) an estimate of the total income exclusive of capital gains for that previous year, and (ii) an estimate of the advance tax so payable on such income calculated in the manner laid down in section 209 and in that event you should pay such amount (less any instalments already paid in accordance with paragraph 3 of this notice) as accords with your estimate in equal instalments on such of the dates specified above as have not expired or in one sum if the last of such dates is the only one which has not yet expired. For this purpose you should enter in the appropriate chalans the amount payable according to your estimate. You may revise your estimate at any time before the last instalment is due and may adjust any excess or deficiency in respect of any instalment already paid in a subsequent instalment or instalments

5 If your income of the previous year relevant to the assessment for the year commencing on the 1st day of April, 19\_\_\_\_, includes any income of

the nature of commission which is receivable periodically and is not received or adjusted by the payer in your account before any of the quarterly instalments of tax becomes due, you may defer the payment of advance tax on that part of your income to the date when such income is normally receivable or adjustable, and if you do so you should inform the Income-tax Officer of the date to which the payment is so deferred. If, however, you do not pay the advance tax so deferred within 15 days of the receipt or adjustment in your account of such income, the advance tax shall be payable with simple interest thereon at four per cent per annum from the date of such receipt or adjustment to the date of payment of the advance tax.

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Form 28

6 If not having made an estimate of the advance tax payable by you under section 212(1) or (2) you do not pay any instalment of tax on or before the date on which as specified in paragraph 3 of this notice it becomes due, you will be treated as in default in respect of such instalment and will be liable under section 221 to a penalty which may be as great as the amount of the instalment due. If, however, you have under section 213 deferred the payment of a part of the advance tax and have informed the Income-tax Officer accordingly you will not be treated as in default in respect of such tax until the date of deferment.

7 If, under section 212(1) or (2) you send to the Income-tax Officer an estimate of the advance tax payable by you, but do not pay any instalment of tax in accordance therewith on or before the appropriate date, you will be treated as in default in respect of such instalment and will be liable under section 221 to a penalty which may be as great as the amount of the instalment.

Dated  
Place

Income-tax Officer  
Address

\*Delete inappropriate paragraphs or words

†Applicable in cases covered by the proviso to section 211

### ENCLOSURE TO FORM No 28

### Order under section 210 of the Income tax Act, 1961

|                  |                                  |
|------------------|----------------------------------|
| Name of assessee | District or Area                 |
| Status           | Number in General Index Register |
| Address          |                                  |

|                                                                                                                                                                                                  | Rs |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----|
| Total income determined in respect of the latest completed regular assessment being that for the year 19 —19 as reduced by the amount of capital gains included therein, if any                  |    |
| Less share of income, if any, from a registered firm if the assessment of the firm has been completed for a year later than that referred to above                                               |    |
| Add share of income, if any, from such registered firm according to the latest completed assessment of the firm                                                                                  |    |
| <b>INCOME SUBJECT TO ADVANCE TAX</b>                                                                                                                                                             |    |
| Adjustments to income subject to advance tax to arrive at total world income (exclusive of capital gains, if any) in the case of a non resident or a resident but not ordinarily resident person |    |
| <b>ADJUSTED TOTAL WORLD INCOME</b>                                                                                                                                                               |    |

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Form 28

|                                                                                                                                                                                   | Income tax<br>Rs | Super tax<br>Rs |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|-----------------|
| *Gross income tax and super tax chargeable on "income subject to advance tax"                                                                                                     |                  |                 |
| Rs                                                                                                                                                                                |                  |                 |
| Sums included in "income subject to advance tax" in respect of which income tax and/or super tax is not payable or on which a rebate of income tax and/or super tax is admissible |                  |                 |
| (i) Share of income from an association of persons or body of individuals or an unregistered firm on the profits of which tax has already been paid                               |                  |                 |
| (ii) Interest on income tax free securities                                                                                                                                       |                  |                 |
| (iii) Life insurance premia                                                                                                                                                       |                  |                 |
| (iv) Other items                                                                                                                                                                  |                  |                 |
| Total amount on which tax is not payable and the proportionate tax on such an amount $\frac{\text{for income tax}}{\text{for super tax}}$                                         |                  |                 |
| Deduct tax which is deductible under sections 192 to 195 on any income included in the "income subject to advance tax"                                                            |                  |                 |
| Net amount of income tax and super tax                                                                                                                                            |                  |                 |
| Less amount on account of estimated double income tax relief, if any                                                                                                              |                  |                 |
| Balance payable                                                                                                                                                                   |                  |                 |
| Less tax already paid in the financial year under section 210 in compliance with the previous notice of demand served on 19                                                       |                  |                 |
| Net amount of tax $\frac{\text{payable}}{\text{refundable}}$                                                                                                                      |                  |                 |

|           |                                            |                                                                |
|-----------|--------------------------------------------|----------------------------------------------------------------|
| TOTAL SUM | $\frac{\text{PAYABLE}}{\text{REFUNDABLE}}$ | ( IN FIGURES AS WELL AS IN WORDS )                             |
| Rs        | nP                                         | (Rupees                      Naya Paise                      ) |
| Date      | Income-tax Officer                         |                                                                |
|           | Address                                    |                                                                |

\*In the case of a person who is resident but not ordinarily resident or who is non resident, the tax on income subject to advance tax should be calculated in the manner indicated in section 113

## FORM No 29

[See rule 39]

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App II  
Form 29

Estimate of the advance tax payable under section 212(1) or (2) or (3) of the Income-tax Act, 1961, for the financial year ending on the 31st March, 19

Name of the assessee

Status (Please state whether individual,  
Hindu undivided family, local  
authority or an association of persons,  
etc )

Address

Whether resident  
resident but not ordinarily resident  
non resident

In the case of a firm, whether the firm has been registered in the last completed assessment/whether firm has submitted an application or declaration for registration under section 184(1) or section 184(7) as the case may be (Date of application or declaration should be given )

In the case of a non-resident or a resident but not ordinarily resident assessee, whether the option in terms of section 113(3) has been exercised and, if so, the date of the exercise of the option.

The tax payable by the assessee named above for the "previous year" ending on \_\_\_\_\_ relevant to the assessment year 19 \_\_\_\_—19 \_\_\_\_ is estimated as follows —

1 Estimated "income subject to advance tax "

- |                                                 |    |
|-------------------------------------------------|----|
| (1) Income from ' Salaries "                    | Rs |
| (2) Interest on securities                      | Rs |
| (3) Income from house property                  | Rs |
| (4) Profits and gains of business or profession | Rs |

(a) Proprietary business or profession

Name

Address

(i)

Rs

(ii)

Rs

(b) Share from firm(s)

| Name of the firm | Address | Whether firm has been registered in the last completed assessment | Share of income |
|------------------|---------|-------------------------------------------------------------------|-----------------|
|                  |         |                                                                   |                 |
|                  |         |                                                                   |                 |

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Form 29

|                                                                                                                                                                                            |    |    |                     |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----|----|---------------------|
| (c) Income from an association of persons or body of individuals                                                                                                                           |    | Rs |                     |
| TOTAL—[(a)+(b)+(c)]                                                                                                                                                                        |    |    | Rs                  |
| (5) Income from other sources                                                                                                                                                              |    |    |                     |
| (i) dividends                                                                                                                                                                              | Rs |    |                     |
| (ii) interest                                                                                                                                                                              | Rs |    |                     |
| (iii) other incomes                                                                                                                                                                        | Rs |    |                     |
| TOTAL                                                                                                                                                                                      |    |    | Rs                  |
| Income subject to advance tax                                                                                                                                                              |    |    | Rs                  |
| 2 Adjustment to income subject to advance tax to arrive at total world income (exclusive of capital gains, if any) in the case of a non-resident or a resident but not ordinarily resident |    |    | Rs                  |
| 3 Adjusted total world income                                                                                                                                                              |    |    | Rs                  |
|                                                                                                                                                                                            |    |    | <i>Income Super</i> |
|                                                                                                                                                                                            |    |    | <i>-tax tax</i>     |
| 4 Gross income-tax and super-tax chargeable on income subject to advance tax (see foot note (3))                                                                                           |    |    | _____               |
| 5 Sums included in income subject to advance tax in respect of which no advance tax is payable or on which a rebate of tax is admissible                                                   |    |    |                     |
| (i) Share of income from an un-registered firm on which the tax will be paid by the firm                                                                                                   |    |    | _____               |
| (ii) Assessee's share in the amount of tax payable by a registered firm                                                                                                                    |    |    | _____               |
| (iii) Share from an association of persons or body of individuals on which tax will be paid by the association or body                                                                     |    |    | _____               |
| (iv) Interest on income-tax free securities (see foot note (4))                                                                                                                            |    |    | _____               |
| (v) Life insurance premia (see foot-note (4))                                                                                                                                              |    |    | _____               |
| (vi) Amount of dividends exempt from super-tax under section 99                                                                                                                            |    |    | _____               |
| (vii) Any other items                                                                                                                                                                      |    |    | _____               |
| Total amount on which tax is not payable and the proportionate tax on such an amount $\frac{\text{for income tax}}{\text{for super tax}}$                                                  |    |    | _____               |

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Form 29

- 6 Excess of 4 over 5
- 7 *Deduct* amount of tax deductible under sections 192 to 195 on any income included in the income subject to advance tax
- 8 Net amount of income-tax and super-tax
- 9 *Less* amount on account of estimated double income tax relief, if any
- 10 Net amount payable
- 11 *Less* (i) tax already paid in the financial year under section 212
- (ii) tax included in item 10 of which the payment is deferred under section 213 to 19 (I certify that the part of the income on which payment of tax is deferred is receivable or adjustable normally on 19 )
- 12 Balance payable

Date

\*Signature of the person making the estimate

Place

Status

To

The Income tax Officer,

NOTES — (1) \*The estimate of tax should be signed by a person who is authorised to sign a return of income as provided in section 140 of the Income tax Act, 1961

(2) In the case of a registered firm, the firm has to submit an estimate of the advance tax payable, if any, by it in accordance with Part I of the First Schedule to the annual Finance Act. The individual partners have also to submit an estimate of the advance tax payable by each including therein the share of income from the registered firm.

(3) In the case of a person who is resident but not ordinarily resident or who is non resident, the tax on income subject to advance tax should be calculated in the manner indicated in section 113.

(4) Only income tax is not payable on these amounts, super tax is payable thereon.



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## FORM No 30

[See rule 41]

## Claim for refund of tax

I, \_\_\_\_\_, of (address) \_\_\_\_\_, do hereby state that my total income and total world income (see note 2) computed in accordance with the provisions of the Income tax Act, 1961, during the year ending on \_\_\_\_\_ being the previous year for the assessment year commencing on the 1st April, 19\_\_\_\_\_, amounted to Rs \_\_\_\_\_ and Rs \_\_\_\_\_ respectively, that the total income tax and super-tax chargeable in respect of such total income is Rs \_\_\_\_\_ and that the total amount of income tax and super-tax paid, or treated as paid under section 199, is Rs \_\_\_\_\_

I, therefore, request for a refund of Rs \_\_\_\_\_

Signature

I hereby declare that I was \_\_\_\_\_ resident  
\_\_\_\_\_ resident but not ordinarily resident  
\_\_\_\_\_ non resident

during the previous year relevant to the assessment year to which this claim relates and that what is stated in this application is correct

Dated

19

Signature

- NOTES — 1 The claim should be accompanied by a return of income in the prescribed form unless the claimant has already made such a return to the Income tax Officer
- 2 The entry relating to the total world income should be filled in only by such non resident persons or resident but not ordinarily resident persons as have elected to be assessed on the basis of their total world income
- 3 Persons who are non resident and whose total income is made up only of income taxed at source should make the claim for refund to the Income tax Officer, Non resident Refund Circle, Bombay
- 4 Where any part of the total income consists of dividends or any other income from which tax has been deducted under the provisions of sections 192 to 195, the claim should be accompanied by the certificates prescribed under section 203

## FORM No 31

[See rule 42]

Application for a certificate under section 230(1) of the Income tax Act, 1961

To

The Income-tax Officer,  
Foreign Section

Sir,

I request that a \*Tax Clearance Certificate/an Exemption Certificate be granted to me

I give below the necessary particulars —

- 1 Full name of applicant (in block letters)
- 2 Name of father (or husband)
- 3 Domicile and nationality

- 4 Nature of business or profession, *etc* , in India
- 5 Name of Income-tax Circle in which assessed and the G I R No (if known)
- 6 Whether exemption is claimed under any section of the Act If so, which ..
- 7 Place(s) at which the business or profession is/was carried on
- 8 Date of arrival in India (when were the previous visits made and what were the periods of stay in each case)
- 9 Destination of journey
- 10 Designation of the Income-tax Officer, if any, who made the last assessment on the applicant
- 11 Probable date of departure
- 12 Mode of travel (by air/sea/land\*)
- 13 Date of intended return, if any

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I declare that to the best of my knowledge and belief, the information furnished in the application is correct, complete and is truly stated

†Authorisation form obtained from the Income-tax Officer is enclosed herewith

Yours faithfully,

Place

Date

(Applicant)

\*Delete the inappropriate words

†This applies only if the applicant is a person domiciled in India or is a person who has been assessed by an Income tax Officer anywhere in India

FORM No 32

[See rule 42]

Authorisation from assessing Income tax Officer

Folio No

GOVERNMENT OF INDIA

To

The Income-tax Officer,

Foreign Section

- 1 Full name (in block letters)
- 2 Name of father (or husband)
- 3 \*Passport No /Emergency Certificate No

\*(i) The abovementioned applicant has been assessed/is assessable by me up to He/She\* has

\*(a) no liabilities outstanding ,

\*(b) made satisfactory arrangements for the payment of taxes due/ which may become due in respect of the assessments up to date/ up to under the Income tax Act, 1961 (XLIII of 1961),

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32, 33

Indian Income tax Act, 1922 (XI of 1922), the Excess Profits Tax Act, 1940 (XV of 1940), the Business Profits Tax Act, 1947 (XXI of 1947), the Wealth tax Act, 1957 (XXVII of 1957), the Expenditure-tax Act, 1957 (XXIX of 1957), or the Gift tax Act, 1958 (XVIII of 1958) He/She\* may accordingly be issued a Clearance Certificate in Form No 33

\*(ii) The abovementioned applicant is assessable in my jurisdiction He/She\* intends travelling abroad leaving India by air/sea/land\* from As he/she\* intends to return to India, he/she\* may be given an Exemption Certificate in Form No 34

Valid for presentation to Income-tax Officer (Foreign Section) within one month from date of issue

Place

*Income tax Officer*

Date

*Designation*

(SEAL)

NOTES —1 \*Delete the inappropriate words or paragraph

- 2 Where the person applying for a tax clearance certificate or an exemption certificate is a person domiciled in India or is a person assessed by an Income tax Officer anywhere in India, the application for the certificate has to be accompanied by an authorisation in this form to be obtained from the Income tax Officer who has jurisdiction over the applicant
- 3 This authorisation form does not by itself constitute a tax clearance certificate or an exemption certificate

### FORM No 33

[See rule 43]

Clearance certificate under section 230(1) of the Income-tax Act, 1961

Folio No

#### GOVERNMENT OF INDIA

- 1 Full name (in block letters)
- 2 Name of father (or husband)
- 3 Passport No /Emergency Certificate No

This is to certify that the abovementioned applicant has

\*(a) no liabilities outstanding,

\*(b) made satisfactory arrangements for the payment of taxes which are or may become payable under the Income-tax Act, 1961 (XLIII of 1961), Indian Income tax Act, 1922 (XI of 1922), the Excess Profits Tax Act, 1940 (XV of 1940), the Business Profits Tax Act, 1947 (XXI of 1947), the Wealth-tax Act, 1957 (XXVII of 1957), the Expenditure tax Act, 1957 (XXIX of 1957), or the Gift-tax Act, 1958 (XVIII of 1958)

This certificate is valid for a journey or journeys to be commenced on or after and before

Place

*Income tax Officer,*

Date

*Foreign Section*

(SEAL)

\*Strike out the para which is not applicable

## FORM No 34

[See rule 43]

Div 3  
App II  
Forms  
34, 35

Exemption certificate under proviso to section 230(1) of the Income tax Act, 1961

GOVERNMENT OF INDIA

Certificate No

- 1 Full name (in block letters) ..
- 2 Name of father (or husband)
- 3 Passport No /Emergency Certificate No

This is to certify that the abovementioned applicant who intends to travel abroad is exempted from producing a Clearance Certificate under section 230(1) of the Income-tax Act, 1961 (XLIII of 1961), in respect of the journey/journeys to be undertaken on or after and before

Place

Income-tax Officer,

Date

Foreign Section

(SEAL)

## FORM No 35

[See rule 45]

Appeal to the Appellate Assistant Commissioner of Income tax

Designation of the Appellate  
Assistant Commissioner

\*No

of

19 —19

|                                                                                                                                                      |  |
|------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| Name and address of the appellant                                                                                                                    |  |
| G I R No                                                                                                                                             |  |
| †Assessment year in connection with which the appeal is preferred                                                                                    |  |
| Income tax Officer passing the order appealed against                                                                                                |  |
| Section and sub section of the Income tax Act, 1961, under which the Income tax Officer passed the order appealed against and the date of such order |  |
| Where the appeal relates to any tax deducted under section 195(1), the date of payment of the tax                                                    |  |
| Where the appeal relates to any assessment or penalty, the date of service of the relevant notice of demand                                          |  |
| In any other case, the date of service of the intimation of the order appealed against                                                               |  |
| Section and clause of the Income tax Act, 1961, under which the appeal is preferred                                                                  |  |
| ‡Relief claimed in appeal                                                                                                                            |  |
| Address to which notices may be sent to the appellant                                                                                                |  |

Signed  
(Appellant)

Div 3  
App II  
Forms  
35, 36

STATEMENT OF FACTS  
GROUNDS OF APPEAL

*Signed*  
*(Appellant)*

FORM OF VERIFICATION

I, \_\_\_\_\_, the appellant, do hereby declare that what is stated above is true to the best of my information and belief

*Place*

*Signature*

*Date*

*Status of appellant*

- NOTES — (1) The form of appeal, grounds of appeal and the form of verification appended thereto shall be signed by a person in accordance with the provisions of rule 45(2)
- (2) The memorandum of appeal, statement of facts and the grounds of appeal must be in duplicate and should be accompanied by a copy of the order appealed against and the notice of demand in original if any
- (3) Delete the inappropriate words
- (4) \*These particulars will be filled in the office of the Appellate Assistant Commissioner
- (5) †Not to be filled in if the appeal relates to tax deducted under section 195(1)
- (6) ‡If the space provided herein is insufficient, separate enclosures may be used for the purpose

FORM No 36

[See rule 47(1)]

Form of appeal to the Appellate Tribunal

| In the Income-tax Appellate Tribunal, |                                                                                       | 19 —19     |
|---------------------------------------|---------------------------------------------------------------------------------------|------------|
| *Appeal No                            | of                                                                                    |            |
| Appellant                             | Versus                                                                                | Respondent |
| 1                                     | The State in which the assessment was made                                            |            |
| 2                                     | Section under which the order appealed against was passed                             |            |
| 3                                     | †Assessment year in connection with which the appeal is preferred                     |            |
| 4                                     | **The Income tax Officer passing the original order                                   |            |
| 5                                     | **Section of the Income tax Act, 1961, under which the I T O passed the order         |            |
| 6                                     | **The Appellate Assistant Commissioner passing the order under section 131(2)/250/271 |            |
| 7                                     | **The Inspecting Assistant Commissioner passing the order under section 274(2)        |            |
| 8                                     | **The Commissioner passing the order under section 263                                |            |

Div 3  
App II  
Form 36

|    |                                                        |  |
|----|--------------------------------------------------------|--|
| 9  | Date of communication of the order appealed against    |  |
| 10 | Address to which notices may be sent to the appellant  |  |
| 11 | Address to which notices may be sent to the respondent |  |
| 12 | †Relief claimed in appeal                              |  |

## GROUNDS OF APPEAL

1  
2  
3  
4  
etc*Signed**(Appellant)**Signed**(Authorised representative, if any)*

## VERIFICATION

I, \_\_\_\_\_, the appellant, do hereby declare that what is stated above is true to the best of my information and belief

Verified today the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_

*Signed*

- NOTES — 1 The memorandum of appeal must be in triplicate and should be accompanied by two copies (at least one of which should be a certified copy) of the order appealed against and two copies of the relevant order of the Income tax Officer
- 2 The memorandum of appeal in the case of an appeal by an assessee under section 253(1) of the Act must be accompanied by a fee of one hundred rupees. It is suggested that the fee should be credited in the Treasury or a branch of the State Bank of India or a branch of the Reserve Bank of India after obtaining a chalan from the Income tax Officer and the triplicate chalan sent to the Appellate Tribunal with the memorandum of appeal. The Appellate Tribunal will not accept cheques, drafts, hundies or other negotiable instruments
- 3 The memorandum of appeal should be written in English and should set forth concisely and under distinct heads, the grounds of appeal without any argument or narrative and such grounds should be numbered consecutively
- 4 \*The number and year of appeal will be filled in in the office of the Appellate Tribunal
- 5 †This column is not to be filled in where the appeal relates to any tax deducted under section 195(1)
- 6 \*\*Delete the inapplicable columns
- 7 ‡If the space provided is found insufficient, separate enclosures may be used for the purpose

Div 3  
App II  
Form  
36-A

## FORM No 36-A

[See rule 47(1)]

## Form of memorandum of cross-objections to the Appellate Tribunal

In the Income-tax Appellate Tribunal,

\*Cross-objection No                      of                      19                      —19  
 \*\*In Appeal No                      of                      19                      —19

Appellant

Versus

Respondent

|   |                                                                                          |  |
|---|------------------------------------------------------------------------------------------|--|
| 1 | **Appeal No allotted by the Tribunal to which memorandum of cross objections relates     |  |
| 2 | The State in which the assessment was made                                               |  |
| 3 | Section under which the order appealed against was passed                                |  |
| 4 | Assessment year in connection with which the memorandum of cross objections is preferred |  |
| 5 | Date of receipt of notice of appeal filed by the appellant to the Tribunal               |  |
| 6 | Address to which notices may be sent to the respondent (cross objector)                  |  |
| 7 | Address to which notices may be sent to the appellant                                    |  |
| 8 | †Relief claimed in the memorandum of cross objections                                    |  |

## †GROUNDS OF CROSS-OBJECTIONS

1  
2  
3  
4  
etc

Signed

(Respondent)

Signed

(Authorised representative, if any)

## VERIFICATION

I, \_\_\_\_\_, the respondent, do hereby declare that what is stated above is true to the best of my information and belief

Verified today the

day of

19

Signed

NOTES — 1

The memorandum of cross objections must be in triplicate

2 The memorandum of cross objections should be written in English and should set forth, concisely and under distinct heads, the cross objections without any argument or narrative and such objections should be numbered consecutively

- 3 \*The number and year of memorandum of cross objections will be filled in in the office of the Appellate Tribunal
- 4 \*\*The number and year of appeal as allotted by the office of the Tribunal and appearing in the notice of appeal received by the respondent is to be filled in here by the respondent
- 5 †If the space provided is found insufficient, separate enclosures may be used for the purpose

Div 3  
App II  
Forms  
36-A, 37

## FORM No 37

[See rule 48]

Reference application under section 256(1) in the Income tax Appellate Tribunal,

In the matter of the assessment of \_\_\_\_\_ (name of the assessee)  
R A No \_\_\_\_\_ of 19 \_\_\_\_\_ (to be filled in by the office)  
Vs

Applicant

Respondent

State from which the application is filed

Name and number of the appeal which gives rise to the reference

The applicant states as follows —

1 that the appeal noted above was decided by the Bench of the Tribunal on

2 that notice of the order under sub-section (1) of section 254 of the Income-tax Act, 1961, was served on the applicant on

3 that the facts which are admitted and/or found by the Appellate Tribunal and which are necessary for drawing up a statement of the case, are stated in the enclosure for ready reference

4 that the following questions of law arise out of the order of the Appellate Tribunal

(1)

(2)

(3)

5 that the applicant, therefore, requires under sub-section (1) of section 256 of the aforesaid Act, that a statement of the case be drawn up and the questions of law numbered \_\_\_\_\_ out of the questions of law referred to in paragraph 4 above be referred to the High Court

6 that the documents, or copies thereof, as specified below (the translation in English of the documents, where necessary, is annexed) be forwarded to the High Court with the statement of the case

*Signed*

*(Applicant)*

*Signed*

*(Authorised representative, if any)*

NOTES — The application when made by an assessee must be accompanied by a fee of one hundred rupees. It is suggested that the fee should be credited in the Treasury or a branch of the State Bank of India or a branch of the Reserve Bank of India, after obtaining a chalan from the Income tax Officer and the triplicate chalan sent to the Appellate Tribunal with the application. The Appellate Tribunal will not accept cheques, drafts, hundies, or other negotiable instruments.



Div 3  
App II  
Forms  
38, 39

## FORM No 38

[See rule 53]

Register of income tax practitioners maintained by the Commissioner of Income tax,

| Sl No | Name in full | Residential address | Professional address | If practising in partnership, names of firm and other partners | Qualifications | Date of entry in register | Commissioner's signature | Punishment under section 288(5) (b), if any | Remarks |
|-------|--------------|---------------------|----------------------|----------------------------------------------------------------|----------------|---------------------------|--------------------------|---------------------------------------------|---------|
| 1     | 2            | 3                   | 4                    | 5                                                              | 6              | 7                         | 8                        | 9                                           | 10      |
|       |              |                     |                      |                                                                |                |                           |                          |                                             |         |

## FORM No 39

[See rule 54]

Form of application for registration as authorised income tax practitioner  
To

The Commissioner of Income-tax

I hereby apply for registration as an authorised income-tax practitioner under clause (v)/(vi)/(vii) of section 288(2) of the Income-tax Act, 1961. The following particulars are furnished herewith —

- (1) Name in full (block letters)
- (2) Father's name
- (3) Permanent residential address
- (4) Present residential address
- (5) Professional address(es) in India
- (6) Principal place of profession in India
- (7) If partner in a firm, names of the firm and other partners

\*I certify that I have passed the Accountancy Examination of (a true copy of certificate enclosed)

\*I certify that I have acquired the educational qualifications of (a true copy of the certificate enclosed)

\*I certify that I was an income-tax practitioner within the meaning of clause (iv) of sub section (2) of section 61 of the Indian Income tax Act, 1922 and was actually practising immediately before 1st April, 1962, as such and some of the cases in which I appeared in that capacity are as below —

| Name and address of assessee | Assessment year | Designation of the income tax authority before whom appeared |
|------------------------------|-----------------|--------------------------------------------------------------|
| 1                            |                 |                                                              |
| 2                            |                 |                                                              |

I certify that I have been practising as an authorised income tax practitioner since \_\_\_\_\_ and that I have not so far made any application for registration as an authorised income tax practitioner to any other Commissioner of Income tax \_\_\_\_\_

Div 3  
App II  
Forms  
39, 40

(Signature)

#### VERIFICATION

I, \_\_\_\_\_, do declare that what is stated in the above application is true to the best of my information and belief

Date \_\_\_\_\_

(Signature)

\*Delete inappropriate words

FORM No. 40

[See rule 55]

#### Certificate of registration

This is to certify that the name of \_\_\_\_\_ son of \_\_\_\_\_, of \_\_\_\_\_, has been entered in the register of authorised income tax practitioners maintained in my office under the Income tax Act, 1961

His Registration No. is \_\_\_\_\_

Date 1 \_\_\_\_\_

Commissioner of Income tax

(SFAL)

Div 3  
App II  
Form 41

FORM No 41

[See rule 74]

Form for maintaining accounts of subscribers to a recognised provident fund

Account closed  
Date  
Paid to employee  
Lapse to employer or to fund  
Recovery by employer

Name .. Date of joining fund ..

| Year and month                                                                     | Salary |   | Contributions |   |   |   | Total interest on | Exempt |   |    |    | Not exempt |    |    | Additions to total | Amount on which | Remarks |
|------------------------------------------------------------------------------------|--------|---|---------------|---|---|---|-------------------|--------|---|----|----|------------|----|----|--------------------|-----------------|---------|
|                                                                                    | 1      | 2 | 3             | 4 | 5 | 6 | 7                 | 8      | 9 | 10 | 11 | 12         | 13 | 14 | 15                 | 16              |         |
| Balance brought forward                                                            |        |   |               |   |   |   |                   |        |   |    |    |            |    |    |                    |                 |         |
| April                                                                              |        |   |               |   |   |   |                   |        |   |    |    |            |    |    |                    |                 |         |
| May                                                                                |        |   |               |   |   |   |                   |        |   |    |    |            |    |    |                    |                 |         |
| March                                                                              |        |   |               |   |   |   |                   |        |   |    |    |            |    |    |                    |                 |         |
| Total                                                                              |        |   |               |   |   |   |                   |        |   |    |    |            |    |    |                    |                 |         |
| Adjustment on account of temporary withdrawals account (columns 8, 9 and 10 only)  |        |   |               |   |   |   |                   |        |   |    |    |            |    |    |                    |                 |         |
| Adjustment on account of non repayable withdrawals account (columns 11, 12 and 13) |        |   |               |   |   |   |                   |        |   |    |    |            |    |    |                    |                 |         |
| Total carried over                                                                 |        |   |               |   |   |   |                   |        |   |    |    |            |    |    |                    |                 |         |

NON REPAYABLE WITHDRAWALS ACCOUNT

TEMPORARY WITHDRAWALS ACCOUNT

| April<br>May<br>June<br>July<br>March | Total | Amount | Balance brought forward               |                      | Advance | Repayment | Interest |
|---------------------------------------|-------|--------|---------------------------------------|----------------------|---------|-----------|----------|
|                                       |       |        | April<br>May<br>June<br>July<br>March | Balance carried over |         |           |          |
|                                       |       |        |                                       |                      |         |           |          |

\*If desired column 7 may be divided into sub columns to show separately the interest on column 3 and columns 4 and 5 respectively

## FORM No 42

[See rule 81]

Div 3  
App II  
Forms  
42, 43

Appeal against refusal to recognise or withdrawal of recognition from a provident fund

To

The Secretary,  
Central Board of Revenue,  
New DelhiThe petition of \_\_\_\_\_ employer(s) carrying  
on business or profession \_\_\_\_\_ at \_\_\_\_\_

Your petitioner(s) applied to (obtained sanction from) the Commissioner of Income-tax under rule 3(1) of Part A of the Fourth Schedule to the Income-tax Act, 1961, for the recognition of the provident fund maintained by him (them) for the benefit of his (their) employees. The Commissioner of Income-tax has refused recognition (withdrawn recognition) for the reasons stated in his order dated \_\_\_\_\_ of which a copy is attached

For the reasons set out below your petitioner(s) submit(s) that the fund should be (continue to be) recognised, and pray(s) that the Central Board of Revenue may be pleased to direct the Commissioner of Income-tax to accord recognition

---

 continue the recognition

---

 GROUNDS OF APPEAL

1

2

etc

We/I, \_\_\_\_\_, the petitioner(s) named in the above petition, do declare that what is stated therein is true to the best of our/my information and belief

Address of the appellant \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

---

 NOTES — (1) Delete the inappropriate words or letters

- (2) The appeal should be accompanied by a fee of rupees one hundred. It is suggested that the fee should be credited in the Treasury or a branch of the State Bank of India or a branch of the Reserve Bank of India after obtaining a chalan from the Income tax Officer and the triplicate chalan sent to the Board with the appeal. The Board will not accept cheques, drafts, hundies or other negotiable instruments

## FORM No 43

[See rule 97]

Appeal against refusal to approve or withdrawal of approval from a super-annuation fund

To

The Secretary,  
Central Board of Revenue,  
New Delhi

The petition of employer(s) carrying on business or profession  
at \_\_\_\_\_

FORM No. 11

[See rule 111]

Appeal against refusal to approve or withdrawal of approval from a  
gratuity fund

To

The Secretary,  
Central Board of Revenue,  
New Delhi

The petition of employer(s) carrying on business or profession  
at

Your petitioner(s) applied to (obtained sanction from) the Commissioner of Income tax under rule 1(1) [2(1)] of Part C of the Fourth Schedule to the Income-tax Act, 1961, for approval of the gratuity fund maintained by him (them). The Commissioner of Income tax has refused approval (withdrawn approval) for the reasons stated in his order dated \_\_\_\_\_ of which a copy is attached

For the reasons set out below your petitioner(s) submit(s) that the fund **Div 3**  
 should be (continue to be) approved and pray(s) that the Central Board of **App II**  
 Revenue may be pleased to direct the Commissioner of Income tax to **Forms**  
 accord approval **44, 45**

continue the approval

### GROUND OF APPEAL

1

2

3

etc

We/I, \_\_\_\_\_, the petitioner(s) named in the  
 above petition, do declare that what is stated therein is true to the best of  
 our/my information and belief

Address of the Appellant

Signature

Date

---

NOTES — (1) Delete the inappropriate words or letters

(2) The appeal should be accompanied by a fee of rupees one hundred It  
 is suggested that the fee should be credited in the Treasury or a branch  
 of the State Bank of India or a branch of the Reserve Bank of India  
 after obtaining a chalan from the Income tax Officer and the triplicate  
 chalan sent to the Board with the appeal The Board will not accept  
 cheques, drafts, hundies or other negotiable instruments

FORM No 45

[See rule 112]

Warrant of authorization under section 132 of the Income tax Act, 1961,  
 and rule 111(10) of the Income-tax Rules, 1962

The Income tax Officer,

Whereas information has been laid before me and on the consideration  
 thereof I have been led to believe that certain books of account and/or  
 documents which are or may be relevant to or useful for proceedings under  
 the above Act in the case (name of the assessee with G I R No \_\_\_\_\_)  
 have been kept and are to be found at (specify particulars of the building  
 or place),

This is to authorise and require you \_\_\_\_\_  
 (name of the Income tax Officer)

- (a) to enter and search with such assistance of police officers as may be  
 required, the said premises,
- (b) to place identification marks on such books and documents as may be  
 found in the course of the search and as you may consider relevant

## FORM No 47

[See rule 113]

Div 3  
App II  
Forms  
47, 48

Form in which information to be given under section 138 of the Income tax Act, 1961

Office of the

Date .

No

To

With reference to your application dated \_\_\_\_\_ under section 138 of the Income-tax Act, 1961, requesting for information as to the amount of tax determined as payable by \_\_\_\_\_ in respect of the assessment year commencing on 1st day of April, 19\_\_\_\_, the said information is given below —

Name and address of the assessee

Status

Assessment year

Amount of tax determined as payable  
(in words and figures)

(SEAL)

*Signature of the authority  
furnishing the information*

Dated

19

## FORM No 48

[See rule 113]

Form in which intimation to be sent regarding non availability of information under section 138 of the Income-tax Act, 1961

Office of the

Date . .

No

To

With reference to your application dated \_\_\_\_\_ under section 138 of the Income-tax Act, 1961, requesting for information as to the amount of tax determined as payable by \_\_\_\_\_ in

Div 3  
App. II  
Forms  
48-50

respect of the assessment year commencing on the 1st day of April, 19  
I am to inform you that the said information is not yet available

(SEAL)

*Dated*

*19*

*Signature*

FORM No 49

[See rule 113]

Refusal to supply information under section 138 of the Income tax Act, 1961

Office of the

*Dated*

No

To

With reference to your application dated under  
section 138 of the Income tax Act, 1961, requesting for information as to the  
amount of tax determined as payable by in  
respect of the assessment year commencing on the 1st day of April, 19  
I am satisfied that there are circumstances justifying its refusal and the  
information is accordingly refused

(SEAL)

*Dated*

*19*

*Signature*

FORM No 50

[See rule 116]

Return of interest under section 285 of the Income tax Act, 1961

Name of payer

Address of payer

Year

1st April, 19 , to 31st March, 19

Resident payees/Non resident payees/Resident but not ordinarily resident  
payees

| Serial<br>No | Name of payee | Address of payee | Date of payment | Amount of<br>interest or<br>aggregate interest |
|--------------|---------------|------------------|-----------------|------------------------------------------------|
| 1            | 2             | 3                | 4               | 5                                              |
|              |               |                  |                 |                                                |



I, \_\_\_\_\_, the principal officer of the company, Div 3 hereby certify that the above statement contains a complete list of persons App II to whom interest or aggregate interest exceeding Rs 400 (regardless of any Forms interest paid to me/the company) was paid 50, 51 during the period 1st April, 19\_\_\_\_, —31st March, 19\_\_\_\_

Dated

19\_\_\_\_

Signature \_\_\_\_\_

NOTE — Separate forms should be used for resident payees, non resident payees and resident but not ordinarily resident payees

## FORM No 51

[See rule 117]

## Return of dividends under section 236 of the Income-tax Act, 1961

Name of company \_\_\_\_\_

Address of company \_\_\_\_\_

Year \_\_\_\_\_ 1st April, 19\_\_\_\_, to 31st March, 19\_\_\_\_

Resident shareholders/Non resident shareholders/Resident but not ordinarily resident shareholders

| Serial No | Name of share holder | Address of share holder | Date of declaration of dividends | Year in respect of which dividend declared | Amount of dividends and tax deducted |                            |                                 |
|-----------|----------------------|-------------------------|----------------------------------|--------------------------------------------|--------------------------------------|----------------------------|---------------------------------|
|           |                      |                         |                                  |                                            | Amount of dividend                   | Tax deducted (section 194) | Net amount paid to share holder |
| 1         | 2                    | 3                       | 4                                | 5                                          | 6                                    | 7                          | 8                               |
|           |                      |                         |                                  |                                            |                                      |                            |                                 |

I, \_\_\_\_\_, the principal officer of the company, hereby certify that the above statement contains a complete list of—

- (1) the resident/non resident shareholders which are companies and to whom a dividend was distributed in the period from the 1st April, 19\_\_\_\_, to the 31st March, \_\_\_\_\_, and
- (2) other resident/non-resident/resident but not ordinarily resident shareholders of the company to whom a dividend or aggregate dividends exceeding Rs 5,000 was or were distributed in the period from the 1st April, 19\_\_\_\_, to the 31st March, 19\_\_\_\_

Dated

19\_\_\_\_

Signature \_\_\_\_\_

NOTE — Separate forms should be used for resident shareholders, non resident shareholders and resident but not ordinarily resident shareholders

**DIVISION 4**

**NOTIFICATIONS, ORDERS, RULES,  
ETC. PERTAINING TO INCOME-TAX**

# A

## THE INCOME-TAX (CERTIFICATE PROCEEDINGS) RULES, 1962

(Notification No S O 955, dated the 26th March, 1962)

In exercise of the powers conferred by sub section (1) of section 295 of the Income-tax Act, 1961 (XLIII of 1961) and rules 91 and 92 of the Second Schedule to that Act, the Central Board of Revenue hereby makes the following rules, namely —

### PART I

#### PRELIMINARY

**1 Short title and commencement** —(1) These rules may be called the Income tax (Certificate Proceedings) Rules, 1962

(2) They shall come into force on the 1st day of April, 1962

**2 Definitions** —In these rules, unless the context otherwise requires,—

(1) “ Act ” means the Income-tax Act, 1961 (XLIII of 1961),

(2) “ public officer ” shall have the same meaning as in the Code of Civil Procedure, 1908 ( V of 1908),

(3) “ principal rules ” means the rules contained in the Second Schedule to the Act, and

(4) “ section ” and “ Schedule ” mean respectively section of, and Schedule to, the Act

**3 Forms** —All references to “ Forms ” in these rules shall be construed as references to the forms set out in the Appendix hereto

**4 Tax Recovery Commissioners appointed by Central Government** —For the purpose of exercising general supervision over the work of Tax Recovery Officers referred to in sub-clause (iii) of clause (44) of section 2, the Central Government may appoint as many Tax Recovery Commissioners as it thinks fit

**5 Jurisdiction of Tax Recovery Commissioners** —Tax Recovery Commissioners shall perform their functions in respect of such areas as the Board may direct

**6 Jurisdiction of Tax Recovery Officers authorised to function as such by the Central Government** —Tax Recovery Officers referred to in sub-clause (iii) of clause (44) of section 2 shall exercise jurisdiction in respect of such areas as the Board may direct

**7 Jurisdiction of other Tax Recovery Officers** —(1) Tax Recovery Officers referred to in sub-clause (i) of clause (44) of section 2 shall exercise jurisdiction within the respective areas in which they exercise, or are authorised to exercise, the powers of a Collector under the law relating to land revenue for the time being in force in the State concerned

(2) Tax Recovery Officers referred to in sub-clause (ii) of clause (44) of section 2 shall exercise jurisdiction in respect of such areas as the State Government concerned may direct

**8 Transfer of proceedings from one Tax Recovery Officer to another** —

(1) With effect from the date a Tax Recovery Officer referred to in sub-clause (iii) of clause (44) of section 2 exercises jurisdiction in respect of any

**Div 4** area, the Tax Recovery Officer referred to in sub-clause (i) or sub clause (ii)  
**A** of clause (44) of that section shall cease to exercise powers as such in that area, and any proceeding for execution of a certificate pending before such Tax Recovery Officer shall stand transferred to the first mentioned Tax Recovery Officer

(2) The Central Government may at any time cancel the appointment of a Tax Recovery Officer referred to in sub-clause (iii) of clause (44) of section 2 for any area and with effect from the date of such cancellation, such Tax Recovery Officer shall cease to exercise powers as such in that area and any proceeding for execution of a certificate pending before such Tax Recovery Officer shall stand transferred to the Tax Recovery Officer referred to in sub-clause (ii) of clause (44) of section 2 for that area and if there is no Tax Recovery Officer referred to in sub clause (ii) of clause (44) of that section for that area, to the Tax Recovery Officer referred to in sub-clause (i) of clause (44) of that section

(3) A Tax Recovery Officer referred to in sub-clause (i) of clause (44) of section 2 who exercises jurisdiction in respect of any area may transfer any proceeding for execution of a certificate pending before him to a Tax Recovery Officer referred to in sub-clause (ii) of clause (44) of that section who exercises jurisdiction in respect of the same area, or any part thereof, and with effect from the date of such transfer the first-mentioned Tax Recovery Officer shall cease to exercise powers as such in respect of that proceeding

(4) Where any proceeding for execution of a certificate pending before a Tax Recovery Officer stands transferred under sub-rule (1) or sub rule (2) or is transferred under sub-rule (3) to any other Tax Recovery Officer, the Officer to whom the proceeding stands or is transferred may continue the proceeding from the stage at which it stood immediately before such transfer and such transfer shall not render necessary the reissue of any notice, warrant, proclamation order or certificate already issued

## PART II

### GENERAL PROCEDURE

**9 Procedure to be followed while sending certificate to another Tax Recovery Officer**—When a certificate is sent by a Tax Recovery Officer to another Tax Recovery Officer under sub section (2) of section 223, he shall—

- (i) keep a copy of the certificate in his office, and
- (ii) inform the Income-tax Officer from whom the certificate was received of his having so sent the certificate

**10 Procedure to be followed on receipt of a certificate from a Tax Recovery Officer**—When a certificate is sent by a Tax Recovery Officer to another Tax Recovery Officer under sub section (2) of section 223, such other Tax Recovery Officer shall follow the same procedure as is laid down in the principal rules and these rules including the issue of the notice under rule 2 of the principal rules

**11 Intimation by the first Tax Recovery Officer**—The Tax Recovery Officer to whom a certificate has been forwarded by an Income tax Officer under sub section (1) of section 223 shall intimate the details of all amounts recovered in respect of such certificate from time to time to the Income-tax Officer and, also, to any Tax Recovery Officer to whom the certificate has been sent by him under sub section (2) of the said section

**12. Intimation by the other Tax Recovery Officer.**—When a certificate is sent by a Tax Recovery Officer to another Tax Recovery Officer under sub-section (2) of section 223, such other Tax Recovery Officer shall communicate to the first mentioned Tax Recovery Officer and to the Income-tax Officer who issued the certificate the details of all amounts recovered by him in respect of such certificate from time to time Div 4  
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**13. Intimation by the Income-tax Officer** —Where a certificate has been issued by an Income-tax Officer, he shall keep the Tax Recovery Officer to whom the certificate has been forwarded by him under sub-section (1) of section 223 and any other Tax Recovery Officer to whom the certificate has been sent under sub-section (2) of the said section, informed of any tax, interest or any other sum, as the case may be, paid or time granted for payment subsequent to the issue of such certificate

**14. Form of notice of demand** —The notice of demand under rule 2 of the principal rules shall be issued in Form No I T C P 1 which may be so varied as the circumstances of each case may require

### PART III

#### ATTACHMENT AND SALE OF PROPERTY

**15 Continuance of attachment subject to claim of encumbrancer** —Where, in the course of investigation made under rule 11 of the principal rules, the Tax Recovery Officer is satisfied that the property is subject to a mortgage or charge (other than a mortgage or charge referred to in section 281 or rule 16 of the said rules) in favour of some person not in possession, and thinks fit to continue the attachment he may do so, subject to such mortgage or charge

**16 Proclamation of sale** —For the purpose of ascertaining the matters to be specified in a proclamation of sale, the Tax Recovery Officer may summon any person whom he thinks necessary to summon and may examine him in respect of any matters relevant to the proclamation and require him to produce any document in his possession or power relating thereto

**17 Sale to be held by whom and his remuneration** —If the Tax Recovery Officer is of the opinion that it will be more advantageous to appoint a person other than an official subordinate to him to sell a property, he may appoint a fit person for the purpose and fix the remuneration to be allowed to him for rendering such services, and the remuneration payable to such person shall be deemed to be costs of the sale

**18 Reserve price** —It shall be competent for the Tax Recovery Officer to fix a reserve price in respect of any property, other than agricultural produce, to be sold and order that any bid shall be accepted only on condition that it is not less than the said reserve price

**19 Report of sale** —The officer conducting a sale shall forthwith pay the entire amount received by him from the purchaser of the property into the Government treasury and shall submit a full report of the sale to the Tax Recovery Officer

**20. Sale proceeds not to be disbursed till sale confirmed** —The proceeds of the sale of immovable property shall not be disbursed until the sale is confirmed by the Tax Recovery Officer or, where an appeal has been filed against the order confirming the sale, until the disposal of the appeal

**21 Registration of sale** —Every Tax Recovery Officer granting a certificate of sale to the purchaser of immovable property sold under the

Div 4 Second Schedule shall send a copy of such certificate to the registering officer concerned under the Indian Registration Act, 1908 (XVI of 1908) within the local limits of whose jurisdiction the whole or any part of the immovable property comprised in the certificate is situate

22 Forms —The following forms, which may be so varied as the circumstances of each case may require, shall be used for the purpose mentioned against each —

- (i) Form No I T C P 2, for issuing a warrant of attachment of movable property under rule 20 of the principal rules;
- (ii) Form No I T C P 3, for issuing a prohibitory order in the case of a debt not secured by a negotiable instrument under rule 26(1)(i) of the principal rules,
- (iii) Form No I T C P 4, for issuing a prohibitory order in the case of a share in a corporation under rule 26(1)(ii) of the principal rules,
- (iv) Form No I T C P 5, for issuing a prohibitory order in the case of other movable property under rule 26(1)(iii) of the principal rules,
- (v) Form No I T C P 6, for issuing a notice of attachment of a decree of a civil court under rule 27 of the principal rules,
- (vi) Form No I T C P 7, for issuing a notice of attachment where the property consists of a share or interest in movable property under rule 28 of the principal rules,
- (vii) Form No I T C P 8, for issuing an order of attachment of salary or allowances under rule 29 of the principal rules,
- (viii) Form No I T C P 9, for issuing an order of attachment of a negotiable instrument under rule 30 of the principal rules,
- (ix) Form No I T C P 10, for issuing a notice of attachment of movable property in the custody of any court or public officer under rule 31 of the principal rules,
- (x) Form No I T C P 11, for issuing an order of attachment of property consisting of an interest in partnership property under rule 32 of the principal rules,
- (xi) Form No I T C P 12, for issuing a warrant of sale of property under rule 37 or rule 52(1) of the principal rules,
- (xii) Form No I T C P 13, for issuing a proclamation of sale of movable or immovable property under rule 38 or rule 52(2) of the principal rules,
- (xiii) Form No I T C P 14, for issuing a certificate of sale of movable property under sub-rule (2) of rule 44 of the principal rules,
- (xiv) Form No I T C P 15, for issuing an order for payment under rule 47 of the principal rules,
- (xv) Form No I T C P 16, for issuing an order of attachment of immovable property under rule 48 of the principal rules,
- (xvi) Form No I T C P 17, for issuing a notice to the defaulter for settling a proclamation of sale under rule 53 of the principal rules,
- (xvii) Form No I T C P 18, for making an order of confirmation of sale of immovable property under sub-rule (1) of rule 63 of the principal rules,

- (xviii) Form No I T C P 19, for issuing a notice to interested parties under the proviso to sub-rule (2) of rule 63 of the principal rules, Div 4  
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- (xix) Form No I T C P 20, for issuing a certificate of sale of immovable property under rule 65 of the principal rules,
- (xx) Form No I T C P 21, for issuing a certificate to defaulter authorising him to mortgage, lease or sell immovable property under sub-rule (2) of rule 66 of the principal rules,
- (xxi) Form No I T C P 22, for issuing an order of attachment of a business under rule 69 of the principal rules

#### PART IV

#### MAINTENANCE AND CUSTODY, WHILE UNDER ATTACHMENT, OF LIVESTOCK OR OTHER MOVABLE PROPERTY, FEES FOR SUCH MAINTENANCE AND CUSTODY, SALE THEREOF AND DISPOSAL OF SALE PROCEEDS

**23 Property to which rules apply**—The rules in this Part relate to movable property (other than agricultural produce) attached by actual seizure under the Second Schedule

**24 Custody at place of attachment**—(1) Where the property attached is of such a nature that its removal from the place of attachment is *impracticable* or its removal involves expenditure out of proportion to the value of the property, the attaching officer shall, subject to any directions which the Tax Recovery Officer may issue in this behalf, arrange for the proper maintenance and custody of the property at the place of attachment. The attaching officer shall forthwith send a report of having done so to the Tax Recovery Officer

(2) On receipt of a report from the attaching officer under sub rule (1), the Tax Recovery Officer may either order the removal of the property to a place which he shall specify or sanction its maintenance and custody at the place of attachment under such conditions as he may think fit

**25 Removal and custody of property in other cases**—Where the attached property is not kept at the place of attachment, it shall be kept in the custody of an officer (hereinafter in this Part referred to as the “custody officer”) subordinate to the Tax Recovery Officer and authorised by the Tax Recovery Officer for this purpose. The custody officer may remove the property to the office of the Tax Recovery Officer for custody under his own supervision or, with the approval of the Tax Recovery Officer, may make such arrangements as may be convenient and economical for its safe custody with any other fit person under his own supervision and the Tax Recovery Officer may fix the remuneration to be allowed to such person

**26 Property may be handed over to the defaulter**—Notwithstanding anything contained in rule 24 or rule 25, the attaching officer or the custody officer may, with the previous approval of the Tax Recovery Officer, entrust, subject to his right of supervision, the attached property to the defaulter on his executing a duly stamped bond (sapurdnama) in Form No I T C P 23 which may be so varied as the circumstances of each case may require

**27 Custody of attached cash, securities, etc**—If the property attached consists of cash, Government or other securities, bullion, jewellery or other valuables, the attaching officer shall send them for safe custody to the nearest Government treasury

**28 Claim of any person other than the defaulter to the property under attachment.**—When the property remains at the place where it is attached in

- Div 4** the custody of the attaching officer, and any person other than the defaulter  
**A** claims the same, or any part thereof, the officer shall nevertheless remain in possession and shall direct the claimant to prefer his claim to the Tax Recovery Officer

**29 Return of property on cancellation or withdrawal of attachment —(1)** If in consequence of withdrawal or cancellation of the attachment, the defaulter becomes entitled to receive back the movable property attached, the possession thereof shall be given to him on payment of costs, charges and expenses due, if any, in respect of the execution of the certificate against such property

(2) For the purpose of giving possession under sub-rule (1), the attaching officer shall inform the defaulter that the property is at his disposal

(3) In the absence of any person to take charge of the property the officer shall, if the property has been moved from the premises in which it was seized, replace it where it was found at the time of seizure

**30 Property may be sold if costs, etc., not paid —**In default of the payment of costs, charges and expenses referred to in sub rule (1) of rule 29, the movable property or such portion thereof as may be necessary shall be sold by auction and after defraying the expenses of such sale and the costs, charges and expenses aforesaid, the balance, if any, of the movable property as has not been sold shall be handed over to the defaulter

**31 Feeding and tending of livestock under attachment —**Whenever livestock is kept at the place where it has been attached, the defaulter shall be at liberty to undertake the due feeding and tending of it, under the supervision of the attaching officer

**32 Removal of livestock —**In the event of the defaulter failing to feed attached livestock, the livestock may be placed in the custody of the custody officer or in the circumstances mentioned in rule 33 may be placed in a pound maintained by the Government or a local authority

**33 Custody of livestock in pound —**If there be any such pound near the office of the Tax Recovery Officer, the attaching officer or the custody officer may place in it such attached livestock as can properly be kept there in which case the pound-keeper shall be responsible for the livestock and shall receive the same rates for accommodation and maintenance thereof as are payable in respect of impounded cattle of the same description

**34 Custody with a person other than custody officer —**Notwithstanding anything contained in rule 33, the custody officer may, with the approval of the Tax Recovery Officer, entrust the attached livestock to any other fit person under his own supervision and the Tax Recovery Officer may fix the remuneration to be allowed to such person after taking into account the local circumstances and the charges which such person may have to incur for the maintenance and custody of such livestock

**35 Expenses of custody, maintenance, etc —**The expenses of maintenance and custody of movable property including the remuneration payable to the person concerned under rule 25 or rule 34 shall be deemed to be costs of the sale

## PART V

### DELIVERY OF PROPERTY SOLD AND EXECUTION OF DOCUMENT OR ENDORSEMENT OF NEGOTIABLE INSTRUMENT OR SHARE IN A CORPORATION

**36 Delivery of movable property, debts and shares —(1)** Where the property sold is movable property of which actual seizure has been made, it shall be delivered to the purchaser



(2) (a) Where the property sold is movable property in the possession of some person other than the defaulter, the delivery thereof to the purchaser shall be made by giving notice to the person in possession prohibiting him from delivering possession of the property to any person except the purchaser and requiring him to deliver possession of the property to the purchaser within the time stipulated by the Tax Recovery Officer Div 4  
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(b) Where such person in possession of the property fails without reasonable cause to deliver possession of the property to the purchaser within the time stipulated by the Tax Recovery Officer, or within such further time as may be allowed by him, the Tax Recovery Officer shall cause the property to be seized and delivered to the purchaser and the provisions of rules 35 and 36 of the principal rules shall, as far as may be, apply to such seizure

(3) (a) Where the property sold is a debt not secured by a negotiable instrument, the delivery thereof to the purchaser shall be made by a written order of the Tax Recovery Officer prohibiting the creditor from receiving the debt or any interest thereon and the debtor from making payment thereof to any person except the purchaser and requiring the debtor to make payment thereof to the purchaser within the time stipulated by the Tax Recovery Officer

(b) Where the debtor fails to make such payment to the purchaser within the time stipulated by the Tax Recovery Officer, or within such further time as may be allowed by him, the Tax Recovery Officer may take further proceedings to recover the amount due from the debtor as if the debtor were a defaulter in respect of whom the Income tax Officer had forwarded a certificate under section 222 for the recovery of arrears of tax equal to the amount of the debt

(4) (a) Where the property sold is a share in a corporation, the delivery thereof to the purchaser shall be made by a written order of the Tax Recovery Officer prohibiting the person in whose name the share may be standing from making any transfer of the share to any person except the purchaser, or receiving payment of any dividend or interest thereon and requiring him to deliver the share certificate or other document of title along with the instrument of transfer duly completed by him to the Tax Recovery Officer within the time stipulated by the Tax Recovery Officer and prohibiting the manager, secretary or other proper officer of the corporation from permitting any such transfer or making any such payment to any person except the purchaser

(b) Where the person in whose name the share may be standing fails to deliver the share certificate or other document of title to the Tax Recovery Officer within the time stipulated by him, or within such further time as may be allowed by him, the Tax Recovery Officer may take steps to obtain a duplicate of the share certificate or other document of title as if the share certificate or other document of title had been lost or destroyed

**37 Transfer of negotiable instruments and shares**—(1) Where the execution of a document or the endorsement of the party in whose name a negotiable instrument or a share in a corporation is standing is required to transfer such negotiable instrument or share to a person who has purchased it under a sale under the Second Schedule, the Tax Recovery Officer may execute such document or make such endorsement as may be necessary and such execution or endorsement shall have the same effect as an execution or endorsement by the party

(2) Such execution or endorsement may be in the following form, namely —

“ by Tax Recovery Officer , in the proceedings  
for the recovery of arrears under the Income-tax Act, 1961, against  
”

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(3) The Tax Recovery Officer may cause the document to be executed on proper stamp paper and to be registered if its registration is required by any law for the time being in force and the expenses of such execution and registration shall be borne by the purchaser

(4) Until the transfer of such negotiable instrument or share, the Tax Recovery Officer may, by order, appoint some person to receive any interest or dividend due thereon and to sign a receipt for the same, and any receipt so signed shall be as valid and effectual for all purposes as if the same had been signed by the party himself

38 Vesting order in case of other property —In the case of any movable property not hereinbefore provided for, the Tax Recovery Officer may make an order vesting such property in the purchaser or as the purchaser may direct, and such property shall vest accordingly

39 Delivery of immovable property in occupancy of defaulter —(1) Where the immovable property sold is in the occupancy of the defaulter or of some person on his behalf or of some person claiming under a title created by the defaulter subsequently to the attachment of such property and a certificate in respect thereof has been granted under rule 65 of the principal rules, the Tax Recovery Officer shall, on the application of the purchaser, order delivery to be made by putting such purchaser or any person whom the purchaser may appoint to receive delivery on his behalf in possession of the property, and if need be, by removing any person who refuses to vacate the same

(2) For the purposes of sub-rule (1), if the person in possession does not afford free access, the Tax Recovery Officer may, after giving reasonable warning and facility to any woman not appearing in public according to the customs of the country to withdraw, remove or open any lock or bolt or break open any door or do any other act necessary for putting the purchaser, or any person whom the purchaser may appoint to receive delivery on his behalf, in possession

40 Delivery of immovable property in occupancy of tenant —Where the immovable property sold is in the occupancy of a tenant or other person entitled to occupy the same and a certificate in respect thereof has been granted under rule 65 of the principal rules, the Tax Recovery Officer shall, on the application of the purchaser, order delivery to be made by affixing a copy of the certificate of sale in some conspicuous place on the property, and proclaiming to the occupant by beat of drum or other customary mode, at some convenient place, that the interest of the defaulter has been transferred to the purchaser

## PART VI

### RESISTANCE OR OBSTRUCTION TO DELIVERY OF POSSESSION TO PURCHASER

41 Resistance or obstruction to possession of immovable property —(1) Where the purchaser of immovable property sold in execution of a certificate is resisted or obstructed by any person in obtaining possession of the property, he may make an application to the Tax Recovery Officer complaining of such resistance or obstruction within thirty days of the date of such resistance or obstruction

(2) The Tax Recovery Officer shall fix a day for investigating the matter and shall summon the party against whom the application is made to appear and answer the same

**42 Resistance or obstruction by defaulter**—Where the Tax Recovery Officer is satisfied that the resistance or obstruction was occasioned without any just cause by the defaulter or by some other person at his instigation, he shall direct that the applicant be put into possession of the property, and where the applicant is still resisted or obstructed in obtaining possession, the Tax Recovery Officer may also, at the instance of the applicant, take steps to put the applicant into possession of the property by removing the defaulter or any person acting at his instigation Div. 4  
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**43. Resistance or obstruction by bona fide claimant**—Where the Tax Recovery Officer is satisfied that the resistance or obstruction was occasioned by any person (other than the defaulter) claiming in good faith to be in possession of the property on his own account or on account of some person other than the defaulter, the Tax Recovery Officer shall make an order dismissing the application

**44. Dispossession by purchaser**—(1) Where any person other than the defaulter is dispossessed of immovable property sold in execution of a certificate by the purchaser thereof, he may make an application to the Tax Recovery Officer complaining of such dispossession within thirty days of such dispossession

(2) The Tax Recovery Officer shall fix a day for investigating the matter and shall summon the party against whom the application is made to appear and answer the same

**45 Bona fide claimant to be restored to possession**—Where the Tax Recovery Officer is satisfied that the applicant was in possession of the property on his own account or on account of some person other than the defaulter, he shall direct that the applicant be put into possession of the property

**46 Rules not applicable to transferee life pendente**—Nothing in rules 43 and 45 shall apply to resistance or obstruction by a person to whom the defaulter has transferred the property after the service of a notice under rule 2 of the principal rules or to the dispossession of any such person

**47. Right to file a suit**—Any party not being a defaulter against whom an order is made under rule 42 or rule 43 or rule 45 may institute a suit in a civil court to establish the right which he claims to the present possession of the property

## PART VII

### APPOINTMENT, POWERS AND DUTIES OF A RECEIVER

**48 Powers of a receiver**—A receiver appointed under the Second Schedule shall have all such powers, as to bringing in and defending suits and for the realisation, management, protection and preservation of the property, the collection of the rents and profits thereof, the application and disposal of such rents and profits, and the execution of documents as the owner himself has, or such of those powers as the Tax Recovery Officer thinks fit

**49 Remuneration of a receiver**—The Tax Recovery Officer may, by general or special order, fix the amount to be paid as remuneration for the services of the receiver

**50 Duties of a receiver**—(1) Every receiver so appointed shall—

- (a) furnish such security (if any) as the Tax Recovery Officer thinks fit, duly to account for what he shall receive in respect of the property,

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- (b) submit his accounts at such periods and in such form as the Tax Recovery Officer directs,
- (c) pay the amount due from him as the Tax Recovery Officer directs, and
- (d) be responsible for any loss occasioned to the property by his wilful default or gross negligence.

(2) The receiver shall maintain true and regular accounts of the receivership and shall in particular maintain a cash book in which shall be entered from day to day all receipts and payments and also a ledger. He shall also maintain a counterfoil receipt book with the leaves numbered serially in print, from which shall be given, as far as possible, all receipts for payments made to the receiver.

(3) Unless the Tax Recovery Officer otherwise directs, the receiver shall, as soon as may be after his appointment, open an account in the name of the receivership in such bank as the Tax Recovery Officer may direct and shall deposit therein all moneys received in the course of the receivership immediately on receipt thereof save any minimum sums that may be required for meeting day to day current expenses. All payments by the receiver shall, as far as possible, be made by cheques drawn on the bank account.

(4) Unless otherwise ordered, a receiver shall submit his accounts once in every three months. The first of such accounts commencing from the date of his appointment and ending with the expiry of three months therefrom shall be submitted within fifteen days of the expiry of the said period of three months and the subsequent accounts brought down to the end of each succeeding period of three months, within fifteen days of the expiry of each such period of three months.

**51 Enforcement of receiver's duties —**(1) Where a receiver fails to submit his accounts at such periods and in such form as the Tax Recovery Officer directs, the Tax Recovery Officer may direct his property to be attached until such time as such accounts are submitted to him.

(2) The Tax Recovery Officer may at any time make an inquiry as to the amount, if any, due from the receiver, as shown by his accounts or otherwise, or an inquiry as to any loss to the property occasioned by his wilful default or gross negligence and may order the amount found due, if not already paid by the receiver under rule 50, or the amount of the loss so occasioned, to be paid by the receiver within a period to be fixed by the Tax Recovery Officer.

(3) Where the receiver fails to pay any amount which he has been ordered to pay under sub rule (2) within the period specified, the Tax Recovery Officer may direct such amount to be recovered from the security (if any) furnished by the receiver or by attachment and sale of his property or, if his property has been attached under sub rule (1), by the sale of such property, and may direct the sale proceeds to be applied in making good any amount found due from the receiver or any such loss occasioned by him and the balance (if any) of the sale proceeds shall be paid to the receiver.

(4) If a receiver fails to submit his accounts at such periods and in such form as directed by the Tax Recovery Officer without reasonable cause or improperly retains any cash in his hands, the Tax Recovery Officer may disallow the whole or any portion of the remuneration due to him for the period of the accounts with reference to which the default is committed and may also charge interest at a rate not exceeding twelve per cent per annum on the moneys improperly retained by him for the period of such retention.

without prejudice to any other proceedings which might be taken against the receiver

**52 Form of order of appointment of a receiver** —An order of appointment of a receiver under rule 69 or rule 70 of the principal rules shall be made in Form No I T C P 24 which may be so varied as the circumstances of each case may require

## PART VIII

### ARREST AND DETENTION

**53 Prison in which defaulter may be detained** —A person against whom an order of detention has been passed under Part V of the Second Schedule may be detained in the civil prison of the district in which the office of the Tax Recovery Officer ordering the detention is situate, or, where such civil prison does not afford suitable accommodation, in any other place which the State Government may appoint for the detention of persons ordered by the civil courts of such district to be detained

**54 Subsistence allowance** —(1) The subsistence allowance shall be supplied by the Income-tax Officer by monthly instalments in advance before the first day of each month

(2) The first payment shall be made to the Tax Recovery Officer for such portion of the current month as remains unexpired before the defaulter is committed to the civil prison, and the subsequent payment (if any) shall be made to the officer in charge of the civil prison

**55** The following forms, which may be so varied as the circumstances of each case may require, shall be used for the purpose mentioned against each —

- (i) Form No I T C P 25, for issuing a notice to show cause why a warrant of arrest should not issue under rule 73 of the principal rules,
- (ii) Form No I T C P 26, for issuing a warrant of arrest under Part V of the principal rules,
- (iii) Form No I T C P 27, for issuing a warrant of detention under Part V of the principal rules,
- (iv) Form No I T C P 28, for issuing an order of release under rule 77 or rule 78 or rule 79 of the principal rules

## PART IX

### SCALE OF FEES FOR PROCESSES, CHARGES FOR OTHER PROCEEDINGS AND POUNDAGE FEES, ETC

**56 Process fees** —The following scale of fees shall be charged for service and execution of processes issued under the Second Schedule and these rules

|                                              | Where the amount<br>mentioned in the certificate<br>exceeds |                         |
|----------------------------------------------|-------------------------------------------------------------|-------------------------|
|                                              | Rs 1,000                                                    | is Rs 1,000<br>or under |
|                                              | Rs                                                          | Rs                      |
| (a) Notice of demand                         | 1 50                                                        | 1 00                    |
| (b) Warrant of attachment                    | 3 00                                                        | 2 00                    |
| (c) Warrant of arrest                        | 3 00                                                        | 2 00                    |
| (d) Warrant of delivery                      | 3 00                                                        | 2 00                    |
| (e) Proclamation of sale                     | 5 00                                                        | 3 00                    |
| (f) Any process not provided for hereinabove | 1 50                                                        | 1 00                    |

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A 57 Levy and scale of poundage fees —(1) In respect of any sale made in the execution of a certificate, there shall be levied a fee by way of poundage on the gross amount realised by the sale, calculated at the rate of 2 per cent on such gross amount up to Rs. 1,000 and at the rate of 1 per cent on the excess of such gross amount over Rs. 1,000.

(2) The poundage fee leviable under sub rule (1) shall be calculated on multiples of Rs. 25, that is to say, a poundage fee of 50 nP shall be levied for every Rs. 25, or part of Rs. 25, realised by the sale up to Rs. 1,000 and in the case of the proceeds of the sale exceeding Rs. 1,000, an additional fee of 25 nP for every Rs. 25 or part thereof on the excess of such amount over Rs. 1,000, shall be levied.

(3) Where the sale is in more than one lot, the poundage fee shall be calculated with reference to the sale proceeds of each lot separately.

(4) The poundage fee under sub rule (1) shall be paid by the purchaser of the property as soon as the sale is completed.

(5) When a sale of immovable property is set aside under sub rule (2) of rule 63 of the principal rules, the Tax Recovery Officer may make an order for payment, by the defaulter or by the person at whose instance the sale is set aside, of the poundage fees paid by the purchaser of the property under sub rule (1) read with sub rule (4).

58 Copying fees —(1) Except in cases where copies are supplied free under rules or instructions in force copying fees shall be charged for supplying a copy of any document as follows:

(a) for the first 200 words or less . . . . . 75 nP

(b) for every additional 100 words or fraction thereof . . . . . 35 nP

(2) Copying fees shall be payable in advance.

(3) The scale of fees to be charged for the supply of a copy urgently shall be twice those prescribed in sub rule (1).

59 Inspection fees —(1) Fees for inspecting records of proceedings before the Tax Recovery Officer under the Second Schedule, where such inspection is permitted by the Tax Recovery Officer, shall be charged as follows:

(a) for the first hour or part thereof . . . . . 75 nP

(b) for every additional hour or part thereof . . . . . 50 nP

(2) Fees for inspection shall be payable in advance.

## PART X

## MISCELLANEOUS

60 Proceedings against legal representative of a deceased defaulter —A notice to the legal representative of a deceased defaulter under rule 85 of the principal rules read with rule 2 of those rules shall be issued in Form No I T C P 29 which may be so varied as the circumstances of each case may require.

61 Recovery from surety —A notice to a surety under rule 88 of the principal rules read with rule 2 of those rules shall be issued in Form No I T C P 30 which may be so varied as the circumstances of each case may require.

62 Appearance before Tax Recovery Officer —(1) Any person who is entitled or required to attend before any Tax Recovery Officer in connection

with any proceeding under the Second Schedule or these rules, otherwise than when required under rule 83 of the principal rules to attend personally for examination on oath or affirmation, may attend either in person or by any legal practitioner who is entitled to practise in any civil court in India Div 4  
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(2) In any such proceeding as aforesaid, the Income-tax Officer concerned shall have the right to be heard either in person or by a representative before the Tax Recovery Officer

## APPENDIX

### FORM No I T C P 1

[See rule 2 of the Second Schedule to the Income-tax Act, 1961]

#### Notice of demand to defaulter

Office of the Tax Recovery Officer,

Dated .. .. .

To

. . . . .

Please take notice that certificate No \_\_\_\_\_ dated \_\_\_\_\_  
has been forwarded by the Income-tax Officer, \_\_\_\_\_, for the recovery  
of an amount of Rs \_\_\_\_\_ details of which are given on the reverse

2 You are hereby required to pay the amount aforesaid within fifteen

Treasury Officer

Sub Treasury Officer

days from the date of service of this notice to

Agent, State Bank of India

Reserve Bank of India

at A chalan is enclosed for the purpose

3 You are informed that in case of default, steps would be taken to realise the amount in accordance with the Second Schedule to the Income-tax Act, 1961

4 In addition to the amount aforesaid, you will also be liable for—

- (a) such interest as is payable in accordance with section 220(2) of the said Act for the period commencing immediately after the date of the issue of the said certificate, and
- (b) all costs, charges and expenses incurred in respect of the service of this notice and of warrants and other processes and of all other proceedings taken for realising the arrears

(SEAL)

Tax Recovery Officer

*N B*—Attention is invited to rule 16 of the Second Schedule to the Income tax Act, 1961, which is reproduced below —

“16 (1) Where a notice has been served on a defaulter under rule 2, the defaulter or his representative in interest shall not be competent to mortgage, charge, lease

Div 4  
A

or otherwise deal with any property belonging to him except with the permission of the Tax Recovery Officer, nor shall any civil court issue any process against such property in execution of a decree for the payment of money.

(2) Where an attachment has been made under this Schedule any private transfer or delivery of the property attached or of any interest therein and any payment to the defaulter of any debt, dividend or other monies contrary to such attachment, shall be void as against all claims enforceable under the attachment.

#### DETAILS OF AMOUNT MENTIONED IN THE RECOVERY CERTIFICATE ISSUED BY THE INCOME-TAX OFFICER

|                                                                                                | Rupees  |         |             | Assessment<br>Year |
|------------------------------------------------------------------------------------------------|---------|---------|-------------|--------------------|
|                                                                                                | Regular | Advance | Provisional |                    |
| (1) Income tax                                                                                 |         |         |             |                    |
| (2) Surcharge on income tax                                                                    |         |         |             |                    |
| (a) Union                                                                                      |         |         |             |                    |
| (b) Special                                                                                    |         |         |             |                    |
| (3) Super tax                                                                                  |         |         |             |                    |
| (4) Surcharge on super tax                                                                     |         |         |             |                    |
| (a) Union                                                                                      |         |         |             |                    |
| (b) Special                                                                                    |         |         |             |                    |
| (5) Penalty under section                                                                      |         |         |             |                    |
| (6) Interest under section                                                                     |         |         |             |                    |
| (7) Fine under section 131(2)                                                                  |         |         |             |                    |
| (8) Any other sum (give details)                                                               |         |         |             |                    |
| (9) Interest under section 220(2) outstanding for the period up to the date of the certificate |         |         |             |                    |
| (10) Total                                                                                     |         |         |             |                    |

#### FORM No ITCP 2

[See rule 20 of the Second Schedule to the Income tax Act, 1961]

#### Warrant of attachment of movable property

Office of the Tax Recovery Officer,

To

Whereas certificate No \_\_\_\_\_ dated \_\_\_\_\_ has been  
forwarded by the Income-tax Officer, \_\_\_\_\_, against \_\_\_\_\_  
(defaulter)  
and the sum of Rs \_\_\_\_\_ as noted below, is due from him in respect of  
the said certificate,



|                    | Rs | nP | Div 4<br>A |
|--------------------|----|----|------------|
| Certificate amount |    |    |            |
| Costs and charges  |    |    |            |
| Interest           |    |    |            |
| Total              |    |    |            |

And whereas the said sum of Rs \_\_\_\_\_ has not been paid in satisfaction of the said certificate,

This is to direct you to serve a copy of this warrant on the defaulter and, unless after such service the said defaulter pays forthwith the said sum of Rs \_\_\_\_\_ together with interest at four per cent per annum of Rs \_\_\_\_\_ from the date of the issue of this warrant and Rs \_\_\_\_\_ for the cost of executing this process, to proceed to attach the movable property of the said defaulter and to hold the same until further orders from the undersigned

You are further directed to return this warrant on or before the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, with an endorsement certifying the day on which and the manner in which it has been executed, or the reason why it has not been executed

Given under my hand and seal at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_  
(SEAL) *Tax Recovery Officer*

### FORM No I T C P 3

[See rule 26(1) (i) of the Second Schedule to the Income-tax Act, 1961]

**Prohibitory order where the property consists of debts not secured by negotiable instruments**

Office of the Tax Recovery Officer,

To

Whereas \_\_\_\_\_ (defaulter) has failed to pay the arrears due from him in respect of certificate No \_\_\_\_\_ dated \_\_\_\_\_ forwarded by the Income-tax Officer, \_\_\_\_\_, amounting to Rs \_\_\_\_\_ and the interest payable under section 220(2) of the Income tax Act, 1961, for the period commencing immediately after the said date,

It is ordered that the said \_\_\_\_\_ be, and is hereby, prohibited and restrained, until the further order of the undersigned, from receiving from you a certain debt alleged now to be due from you to the said defaulter, namely,

Div 4 And that you, the said , be, and you are hereby, prohibited  
A and restrained, until the further order of the undersigned, from making  
payment of the said debt or any part thereof, to any person whomsoever or  
otherwise than to the undersigned

Given under my hand and seal at .. this .. day of

(SEAL)

*Tax Recovery Officer*

# FORM No ITCP 4

[See rule 26(1)(ii) of the Second Schedule to the Income-tax Act, 1961]

Prohibitory order where the property consists of shares in a corporation

Office of the Tax Recovery Officer,

To

(1)

(2)

(Principal Officer)

(Name of corporation)

Whereas..

(defaulter)

has failed to pay the arrears due from

him in respect of certificate No .. dated .. forwarded by  
the Income tax Officer, .., amounting to Rs .. and the  
interest payable under section 220(2) of the Income tax Act, 1961, for the  
period commencing immediately after the said date,

It is ordered that you, No (1) abovementioned, be, and you are hereby,  
prohibited and restrained, until the further order of the undersigned, from  
making any transfer of the shares in the aforesaid corporation standing in  
your name or from receiving payment of any dividends thereon

And that you, No (2) abovementioned, are hereby prohibited and  
restrained, until the further order of the undersigned, from permitting any such  
transfer or making any such payment

Given under my hand and seal at

this

day of

(SEAL)

*Tax Recovery Officer*

## FORM No I T C P 5

Dir 4  
A

[See rule 26(1)(iii) of the Second Schedule to the Income tax Act, 1961]

Prohibitory order where the property to be attached consists of movable property to which the defaulter is entitled subject to a lien or right of some other person to the immediate possession thereof

Office of the Tax Recovery Officer,

To

Whereas (defaulter) has failed to pay the arrears due from him

in respect of certificate No dated forwarded by the Income tax Officer, , amounting to Rs and the interest payable under section 220(2) of the Income tax Act, 1961, for the period commencing immediately after the said date,

It is ordered that the said defaulter be, and is hereby, prohibited and restrained, until the further order of the undersigned, from receiving from you, namely, the following property in the possession of the said , that is to say

to which the said defaulter is entitled, subject to your claim of immediate possession thereof

And that you are hereby prohibited and restrained, until the further order of the undersigned, from delivering the said property to any person or persons whomsoever

Given under my hand and seal at this day of .

(SEAL)

Tax Recovery Officer

## FORM No I T C P 6

[See rule 27 of the Second Schedule to the Income-tax Act, 1961]

Notice of attachment of a decree of a civil court

Office of the Tax Recovery Officer

Dated . . .

Div 4 To  
A

The Judge of the Court of

Sir,

Whereas . (defaulter) has failed to pay the arrears due from him in respect of certificate No . dated . forwarded to, the Income-tax Officer, . amounting to Rs . and the interest payable under section 220(2) of the Income-tax Act, 1961, for the period commencing immediately after the said date ,

And whereas the undersigned in exercise of his powers under the Second Schedule to the said Act, desires to proceed with attachment of a decree of . Court dated the . day of . made in suit No . of . wherein . was the plaintiff and . was the defendant and which decree is pending execution in your Court,

You are, therefore, requested to stay the execution of the said decree unless and until—

- (i) the undersigned cancels this notice , or
- (ii) the Income tax Officer, . , or the abovementioned defaulter applies to you to execute the decree

Yours faithfully,

*Tax Recovery Officer*

(SEAL)

FORM No ITCP 7

[See rule 28 of the Second Schedule to the Income-tax Act, 1961]

Notice of attachment where the property consists of a share or interest in movable property

Office of the Tax Recovery Officer,

To

## FORM No I T C P 8

Div 4  
A

[See rule 29 of the Second Schedule to the Income-tax Act, 1961]

## Order to attach salary or allowances of servants of Government or local authority

Office of the Tax Recovery Officer,

To

...

Whereas \_\_\_\_\_ (defaulter) has not paid arrears amounting to Rs \_\_\_\_\_ in respect of certificate No \_\_\_\_\_, dated \_\_\_\_\_ forwarded by the Income-tax Officer, \_\_\_\_\_, and the interest payable under section 220(2) of the Income tax Act, 1961, for the period commencing immediately after the said date,

And whereas the said \_\_\_\_\_ is a \_\_\_\_\_ (office allowances (sic) held by defaulter) receiving his salary and allowances at your hands,

You are hereby required to withhold the sum of Rs \_\_\_\_\_ from the salary of the said \_\_\_\_\_ in monthly instalments of \_\_\_\_\_ and to remit the said sum in monthly instalments to the undersigned

Given under my hand and seal at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_  
(SEAL) Tax Recovery Officer

## FORM No I T C P 9

[See rule 30 of the Second Schedule to the Income-tax Act, 1961]

## Order of attachment of negotiable instrument

Office of the Tax Recovery Officer,

To

(Attaching Officer)

Whereas the undersigned has passed on the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_ an order for the attachment of the undermentioned property in the course of proceedings for the recovery of arrears due from \_\_\_\_\_ (defaulter) in respect of certificate No \_\_\_\_\_ dated \_\_\_\_\_ forwarded by the Income tax Officer, \_\_\_\_\_,

You are hereby directed to seize the said property and bring the same before me and hold the same subject to my orders

## DETAILS OF PROPERTY

Given under my hand and seal at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_  
.19  
(SEAL) Tax Recovery Officer,

Div 4  
A

## FORM No I T C P 10

[See rule 31 of the Second Schedule to the Income-tax Act, 1961]

**Notice of attachment of movable property in the custody of a court or public officer**

Office of the Tax Recovery Officer,

Dated

To

Sir,

Whereas (defaulter) has not paid the arrears amounting to Rs in respect of certificate No dated forwarded by the Income tax Officer, , and the interest payable under section 220(2) for the period commencing immediately after the said date and the undersigned desires to attach sums of money or other property now in your custody\*,

I request that you will hold the said money or property and any interest or dividend becoming payable thereon subject to the further order of the undersigned

Yours faithfully,

*Tax Recovery Officer*

Note — \*Here state how the money or property is understood to be in the hands of the court or the public officer addressed, on what account and other available details

## FORM No I T C P 11

[See rule 32 of the Second Schedule to the Income tax Act, 1961]

**Order of attachment of property consisting of an interest in partnership property**

Office of the Tax Recovery Officer,

To

Whereas Rs has not paid arrears amounting to in respect of a certificate No dated forwarded by the Income tax Officer, , and the interest payable under section 220(2) of the Income-tax Act, 1961,

for the period commencing immediately after the said date and whereas the said Div 4  
 is a partner in the firm known as M'ssrs , A

It is hereby ordered

(\*) that the share of the said in the partnership property and profits of the said firm be and is hereby charged with the payment of the amount aforesaid due under the said certificate, and

(ii) \*that

Given under my hand and seal at this day of  
 19  
 (SEAL) Tax Recovery Officer

Note — \*Here incorporate any other order that may be considered necessary in the circumstances

### FORM No I T C P 12

[See rule 37 and rule 52(1) of the Second Schedule to the Income-tax Act, 1961]

### Warrant of sale of property

Office of the Tax Recovery Officer

To

These are to command you to sell by public auction, after giving days' previous notice by affixing the same in the office of the undersigned, and after making due proclamation, the undermentioned property attached in execution of certificate No dated forwarded by the Income-tax Officer, , against (defaulter) or so

much of the said property as shall realise (i) the sum of Rs , being the sum of the amount of the said certificate and costs still remaining unsatisfied and (ii) interest payable on Rs under section 220(2) of the Income-tax Act, 1961, for the period commencing immediately after the said date of issue of the certificate

2 You are further commanded to return this warrant on or before the day of 19 , with an endorsement certifying the manner in which it has been executed or the reason why it has not been executed

### SPECIFICATION OF PROPERTY

Given under my hand and seal at this day of  
 19  
 (SEAL) Tax Recovery Officer

Div 4  
A

## FORM No I T C P 13

[See rule 38 and rule 52(2) of the Second Schedule to the Income tax Act, 1961]

## Proclamation of sale

Office of the Tax Recovery Officer,

Whereas the Income tax Officer, . , has forwarded the certificate No . dated . for the recovery of the sum of Rs . from . which sum (defaulter) is recoverable together with interest in accordance with section 220(2) of the Income tax Act, 1961, for the period commencing immediately after the said date and the costs, charges and expenses of the proceedings for the recovery thereof,

And whereas the undersigned has ordered the sale of the attached property mentioned in the annexed schedule in satisfaction of the said certificate,

And whereas on the . day of . 19 . (the date fixed for the sale) there will be due thereunder a sum of Rs . including costs and interest,

Notice is hereby given that, in the absence of any order of postponement, the said property shall be sold by . by public auction at . A M / P M on the said . day of . 19 . at (place)

The sale will be of the property of the defaulter abovenamed as mentioned in the schedule below, and the liabilities and claims attaching to the said property, so far as they have been ascertained, are those specified in the schedule against each lot,

The property will be put up for sale in the lots specified in the schedule. If the amount to be realised by sale is satisfied by the sale of a portion of the property, the sale shall be immediately stopped with respect to the remainder. The sale will also be stopped if, before any lot is knocked down, the arrears mentioned in the said certificate, interest payable under section 220(2) of the Income-tax Act, 1961, and costs (including the costs of the sale) are tendered to the officer conducting the sale or proof is given to his satisfaction that the amount of such arrears, interest and costs has been paid to the undersigned.

At the sale, the public generally are invited to bid either personally or by duly authorised agent. No officer or other person, having any duty to perform in connection with this sale shall, however, either directly or indirectly bid for, acquire or attempt to acquire any interest in the property sold.

The sale shall be subject to the conditions prescribed in the Second Schedule to the Income-tax Act, 1961, and the rules made thereunder and to the following further conditions —



- (i) The particulars specified in the annexed schedule have been stated to the best of the information of the undersigned, but the undersigned shall not be answerable for any error, mis-statement or omission in this proclamation **Div 4 A**
- (ii) The amounts by which biddings are to be increased shall be determined by the officer conducting the sale. In the event of any dispute arising as to the amount bid, or as to the bidder, the lot shall at once be again put up to auction.
- (iii) The highest bidder shall be declared to be the purchaser of any lot provided always that he is legally qualified to bid, and provided that it shall be in the discretion of the undersigned to decline acceptance of the highest bid when the bid is less than the reserve price, if any, fixed or when the price offered appears so clearly inadequate as to make it advisable to do so.
- (iv) For reasons recorded, it shall be in the discretion of the officer conducting the sale to adjourn it subject always to the provisions of the Second Schedule to the Income tax Act, 1961.
- (v) In the case of movable property, the price of each lot shall be paid at the time of sale or as soon after as the officer holding the sale directs, and in default of payment, the property shall forthwith be again put up and resold.
- (vi) In the case of immovable property, the person declared to be the purchaser shall pay immediately after such declaration, a deposit of twenty-five per cent on the amount of his purchase money to the officer conducting the sale and, in default of such deposit, the property shall forthwith be put up again and resold. The full amount of the purchase money payable shall be paid by the purchaser to the undersigned on or before the 15th day from the date of the sale of the property, exclusive of such day, or if the 15th day be a Sunday or other holiday, then on the first office day after the 15th day. In default of payment within the period mentioned above, the property shall be resold, after the issue of fresh proclamation of sale. The deposit, after defraying the expenses of the sale, may, if the undersigned thinks fit, be forfeited to the Government and the defaulting purchaser shall forfeit all claims to the property or to any part of the sum for which it may subsequently be sold.

## SCHEDULE OF PROPERTY

| No of lot | Description of property to be sold with the names of the other co owners where the property belongs to the defaulter and any other persons as co owners | Revenue assessed upon the property or any part thereof | Details of any incumbrances to which the property is liable | Claims, if any, which have been put forward to the property, and any other known particulars bearing on its nature and value |
|-----------|---------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------|-------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------|
| 1         | 2                                                                                                                                                       | 3                                                      | 4                                                           | 5                                                                                                                            |

Given under my hand and seal at this day of

19

(SEAL)

Tax Recovery Officer

Div 4  
A

## FORM No I T C P 14

[See rule 44(2) of the Second Schedule to the Income tax Act, 1961]

## Certificate of sale of movable property

Office of the Tax Recovery Officer,

This is to certify that Shri \_\_\_\_\_ purchased for Rs \_\_\_\_\_  
 the undermentioned movable property at a sale by public auction on the  
 \_\_\_\_\_ day of \_\_\_\_\_ in execution of certificate No \_\_\_\_\_  
 dated \_\_\_\_\_ forwarded by the Income-tax Officer, \_\_\_\_\_,  
 for recovery of arrears from \_\_\_\_\_

## SPECIFICATION OF PROPERTY

Given under my hand and seal at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_  
 (SEAL) \_\_\_\_\_ Officer holding the sale

## FORM No I T C P 15

[See rule 47 of the Second Schedule to the Income tax Act, 1961]

## Order for payment to the Income-tax Officer of current coins and currency notes attached

Office of the Tax Recovery Officer,

To

Whereas in execution of certificate No \_\_\_\_\_ dated \_\_\_\_\_  
 forwarded by the Income tax Officer, \_\_\_\_\_, the following property  
 consisting of current coins/currency notes has been attached —

(1)

*Current coins*

(2)

*Currency notes*

It is hereby ordered that out of the property so attached Rs \_\_\_\_\_  
 in current coins and Rs \_\_\_\_\_ in currency notes shall be paid over to  
 the Income tax Officer \_\_\_\_\_ in satisfaction of the said certificate

Given under my hand and seal at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_  
 19 \_\_\_\_\_

(SEAL)

*Tax Recovery Officer*

## FORM No ITC P 16

Div 4  
A

[See rule 48 of the Second Schedule to the Income-tax Act, 1961]

### Order of attachment of immovable property

Office of the Tax Recovery Officer,

To

Whereas you have failed to pay the sum of Rs \_\_\_\_\_ payable by you in respect of certificate No \_\_\_\_\_ dated \_\_\_\_\_ forwarded by the Income-tax Officer, \_\_\_\_\_, and the interest payable under section 220(2) of the Income-tax Act, 1961, for the period commencing immediately after the said date,

It is ordered that you, the said \_\_\_\_\_, do hereby, and you are hereby, prohibited and restrained, until the further order of the undersigned, from transferring or charging the undermentioned property in any way and that all persons be, and that they are hereby prohibited from taking any benefit under such transfer or charge

### SPECIFICATION OF PROPERTY

Given under my hand and seal at                      this                      day of

(SEAL)

*Tax Recovery Officer*

## FORM No. ITC P 17

[See rule 53 of the Second Schedule to the Income-tax Act, 1961]

## Notice to defaulter for settling a sale proclamation

Office of the Tax Recovery Officer,

To

Whereas in execution of certificate No \_\_\_\_\_ dated \_\_\_\_\_  
forwarded by the Income-tax Officer, \_\_\_\_\_, the undersigned has  
ordered the sale of the undermentioned immovable property,

You are hereby informed that the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_ has been fixed for drawing up the proclamation of sale and settling the terms thereof. You are requested to bring to the notice of the undersigned any encumbrances, charges, claims or liabilities attaching to the said properties or any portion thereof.

## SPECIFICATION OF PROPERTY

Given under my hand and seal at this day of  
(SEAL) *Tax Recovery Officer*

FORM No I T C P 18

[See rule 63(1) of the Second Schedule to the Income-tax Act, 1961]

## Order of confirmation of sale or immovable property

Office of the Tax Recovery Officer,

purchased for Rs the immovable  
property specified below at a sale held by public auction on the  
day of 19, in execution of certificate No dated  
forwarded by the Income-tax Officer, , for  
recovery of arrears from The full amount of the  
purchase money has been paid on \*No application under  
rule 60/rule 61/rule 62 of the Second Schedule to the Income tax Act, 1961,  
has been received for setting aside the sale

\*Application under rule 60/rule 61/rule 62 of the Second Schedule to  
the said Act made by for setting aside the sale has been  
disallowed by the undersigned

Accordingly, the said sale is hereby confirmed

## SPECIFICATION OF PROPERTY

Given under my hand and seal at this day of .  
(SEAL) *Tax Recovery Officer*

\* Delete the inappropriate words

FORM No I T C P 19

[See rule 63(2) of the Second Schedule to the Income-tax Act, 1961]

Notice to interested parties to show cause why sale should not be set aside

Office of the Tax Recovery Officer,

To

Whereas the undermentioned property was sold on the  
day of in execution of certificate No dated  
forwarded by the Income-tax Officer, , for recovery of  
arrears from  
(defaulter)

And whereas \_\_\_\_\_ has applied to the undersigned to set aside the sale under rule 60/rule 61/rule 62 of the Second Schedule to the Income-tax Act, 1961, Div 4  
A

Take notice that if you have any cause to show why the said application should not be granted, you should appear with your proofs before the undersigned on \_\_\_\_\_ when the said application will be heard and determined

## DESCRIPTION OF PROPERTY

Given under my hand and seal at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_  
(SEAL) *Tax Recovery Officer*

FORM No I T C P 20

[See rule 65 of the Second Schedule to the Income tax Act, 1961]

## Certificate of sale of immovable property

Office of the Tax Recovery Officer,

This is to certify that Shri \_\_\_\_\_ has been declared the purchaser at a sale by public auction on the \_\_\_\_\_ day of \_\_\_\_\_ of the undermentioned immovable property in execution of certificate No \_\_\_\_\_ dated \_\_\_\_\_ forwarded by the Income-tax Officer, \_\_\_\_\_, for recovery of arrears from \_\_\_\_\_ and that the said sale has been duly confirmed by the undersigned and became absolute on the \_\_\_\_\_ day of \_\_\_\_\_

## SPECIFICATION OF PROPERTY

Given under my hand and seal at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_  
(SEAL) *Tax Recovery Officer*

FORM No I T C P 21

[See rule 66(2) of the Second Schedule to the Income tax Act, 1961]

## Certificate to defaulter authorising him to mortgage, lease or sell property

Office of the Tax Recovery Officer,

Whereas in execution of certificate No \_\_\_\_\_ dated \_\_\_\_\_ forwarded by the Income tax Officer, \_\_\_\_\_, for recovery of arrears from \_\_\_\_\_, an order was made on the \_\_\_\_\_ day of \_\_\_\_\_ (defaulter) \_\_\_\_\_ for the sale of the undermentioned property of the said defaulter,

**Div 4** And the undersigned is satisfied that there is reason to believe that if  
**A** the sale is postponed the amount of the said certificate may be raised by the  
 defaulter by mortgage/lease/private sale of the said property or any part  
 thereof and the sale of the undermentioned property has been postponed  
 till the \_\_\_\_\_ day of \_\_\_\_\_ subject to the terms as  
 mentioned in the order passed by the undersigned on the \_\_\_\_\_  
 day of \_\_\_\_\_.

This is to certify that the said defaulter is hereby authorised to make the  
 proposed mortgage/lease/sale within a period of \_\_\_\_\_ from the  
 date of this certificate provided that all moneys payable under such mortgage/  
 lease/sale shall be paid, not to the said defaulter, but to the undersigned and  
 provided also that no such mortgage/lease/sale shall become absolute until it  
 has been confirmed by the undersigned

#### DESCRIPTION OF PROPERTY

Given under my hand and seal at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_  
 (SEAL) \_\_\_\_\_  
*Tax Recovery Officer*

#### FORM No I T C P 23

[See rule 69 of the Second Schedule to the Income tax Act, 1961]

#### Order attaching a business

Office of the Tax Recovery Officer,

To

(Name of defaulter)

Whereas certificate No \_\_\_\_\_ dated \_\_\_\_\_ for recovery of  
 arrears amounting to Rs \_\_\_\_\_ from you has been forwarded by  
 the Income-tax Officer, \_\_\_\_\_,

It is hereby ordered that the business carried on by you under the name  
 and style of \_\_\_\_\_ at \_\_\_\_\_ be and is hereby attached  
 and you are informed accordingly

It is hereby further ordered that you, the abovesaid \_\_\_\_\_ be,  
 and are hereby, prohibited and restrained from transferring or charging the  
 said business in any way and that all persons whosoever are hereby prohibited  
 and restrained from taking any benefit under such transfer or charge

Given under my hand and seal at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_  
 (SEAL) \_\_\_\_\_  
*Tax Recovery Officer*

## FORM No I T C P 23

Div 4  
A

[See rule 26 of the Income tax (Certificate Proceedings) Rules, 1962]

## Bond (Sapurdnama)

Statement of Shri \_\_\_\_\_ aged \_\_\_\_\_, son of Shri \_\_\_\_\_  
\_\_\_\_\_, residing at \_\_\_\_\_

I have received notice in Form No I T C P 1 that arrears amounting to Rs \_\_\_\_\_ are due from me in respect of certificate No \_\_\_\_\_ dated \_\_\_\_\_ forwarded by the Income tax Officer, \_\_\_\_\_ I offer herewith a sum of Rs \_\_\_\_\_ towards the said arrears Regarding the balance of Rs \_\_\_\_\_ of the arrears as well as costs, expenses and charges amounting to Rs \_\_\_\_\_, I undertake to pay the same in monthly instalments of Rs \_\_\_\_\_ each payable not later than the \_\_\_\_\_ day of each month commencing from \_\_\_\_\_ along with each instalment I also undertake to pay the interest payable under section 220(2) of the Income-tax Act, 1961, for the period commencing immediately after the date of issue of the said certificate I undertake not to commit any default in the payment of the instalments I agree that if I commit any default in paying any one of the instalments within the time aforesaid, the entire amount due from me on the date of the default may be recovered in entirety by such measures as the Tax Recovery Officer, \_\_\_\_\_, considers necessary I specify herein my assets as on this day and I agree not to sell, give away, transfer, mortgage, or otherwise alienate or encumber these assets in any way until the entire amount due from me is paid to the Tax Recovery Officer, \_\_\_\_\_, in full I agree that in the meanwhile, these assets may continue to remain attached if considered necessary I also agree to furnish two solvent sureties who will execute a surety bond in the form approved by the Tax Recovery Officer, \_\_\_\_\_, for the due payment by me of the aforesaid dues in instalments as agreed to herein

## DETAILS OF ASSETS AS ON THIS DAY

Before me  
(Signature)  
(Name)  
(Designation)  
Date

(Signature)  
(Name)  
(Date)

(SEAL)

## FORM No I T C P 24

[See rule 69 or rule 70 of the Second Schedule to the Income-tax Act, 1961]

## Appointment of a receiver

Office of the Tax Recovery Officer,

Div 4 To  
A

Whereas . . . has been attached under an order passed by the undersigned under rule 69/rule 70 of the Second Schedule to the Income tax Act, 1961, in the course of execution of certificate No . . . dated . . . forwarded by the Income tax Officer, . . . for recovery of arrears from the said . . .

You are hereby appointed receiver of the said business/property

Subject to any orders which may be passed by the undersigned in this behalf, you shall have all the powers necessary for the management of the said business/property in accordance with the said Schedule and the rules made thereunder

You are required to render a due and proper account of your receipts and disbursements in respect of the said business/property in accordance with Part VII of the Income tax (Certificate Proceedings) Rules, 1962

You will be entitled to remuneration at the rate of

Your appointment as receiver of the said business/property shall continue in force until further orders of the undersigned and may be cancelled or withdrawn at any time at the discretion of the undersigned

Given under my hand and seal at this day of  
(SEAL) *Tax Recovery Officer*

#### FORM No I T C P 25

[See rule 73 of the Second Schedule to the Income tax Act, 1961]

Notice to show cause why a warrant of arrest should not be issued  
Office of the Tax Recovery Officer,

To

Whereas you have failed to pay the amount of arrears specified in certificate No . . . dated . . . forwarded by the Income tax Officer, . . . for recovery of arrears from you and the interest payable under section 220(2) of the Income tax Act, 1961, for the period commencing immediately after the said date and it is proposed to execute the above certificate by arrest and imprisonment of your person,

You are hereby required to appear before the undersigned on the day of . . . at . . . at . . . A M / P M and to show cause why you should not be committed to the civil prison in execution of the said certificate

Given under my hand and seal at this day of  
(SEAL) *Tax Recovery Officer*



## FORM No I T C P 26

Div. 4  
A

[See Part V of the Second Schedule to the Income tax Act, 1961]

## Warrant of arrest

Office of the Tax Recovery Officer,

To

Whereas certificate No \_\_\_\_\_ dated \_\_\_\_\_ was forwarded  
by the Income-tax Officer, \_\_\_\_\_, for recovery of arrears from  
\_\_\_\_\_ of \_\_\_\_\_ and the sum of Rs \_\_\_\_\_  
(defaulter) (address)  
as noted below is due from the said defaulter in respect of the said certificate —  
Rs nP

Certificate amount

Costs and charges

Interest up to the date of issue of this warrant

Total \_\_\_\_\_

and whereas the said sum of Rs \_\_\_\_\_ has not been paid in satisfaction  
of the said certificate ,

These are to command you to arrest the said defaulter and bring him  
before the undersigned as soon as practicable and in any event within 24 hours  
of his arrest (exclusive of the time required for the journey) unless the defaulter  
pays to you the said amount of Rs \_\_\_\_\_ together with further  
interest on Rs \_\_\_\_\_ at four per cent per annum for the period  
commencing immediately after the date of issue of this warrant and  
Rs \_\_\_\_\_ for the cost of executing this process

You are hereby further commanded to return the warrant on or before  
the \_\_\_\_\_ day of \_\_\_\_\_ with an endorsement certifying the day  
on which and the manner in which it has been executed or the reason why it  
has not been executed

Given under my hand and seal at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_  
(SEAL) \_\_\_\_\_ Tax Recovery Officer

## FORM No I T C P 27

[See Part V of the Second Schedule to the Income-tax Act, 1961]

## Warrant of detention in civil prison

Office of the Tax Recovery Officer,

Div 4 To

A The Officer-in-charge of the Civil Prison of

Whereas \_\_\_\_\_ has been brought before the undersigned under a warrant in execution of certificate No \_\_\_\_\_ dated \_\_\_\_\_ forwarded by the Income-tax Officer, \_\_\_\_\_, for recovery of arrears from him \_\_\_\_\_,

And whereas he has not satisfied the undersigned that he is entitled to be discharged from custody and has not paid the amount due from him as detailed below —

|                    |  |    |    |
|--------------------|--|----|----|
| Certificate amount |  | Rs | nP |
| Costs and charges  |  |    |    |
| Interest           |  |    |    |

Total

And whereas the undersigned is satisfied that the said \_\_\_\_\_ should be committed to the civil prison and an order to that effect has been passed by the undersigned on the \_\_\_\_\_ day of \_\_\_\_\_,

You are hereby commanded and required to take and receive the said \_\_\_\_\_ into the civil prison and to keep him imprisoned therein for a period of \_\_\_\_\_ or until the amount aforesaid together with further interest on Rs \_\_\_\_\_ at four per cent per annum for the period commencing immediately after the date of issue of this warrant payable under section 220(2) of the Income-tax Act, 1961, is paid to you or until you receive an order of release from the undersigned

The undersigned does hereby fix Rs \_\_\_\_\_ nP \_\_\_\_\_ per diem (calculated under rule 90(2) of the Second Schedule to the said Act) as the rate for subsistence allowance of the said \_\_\_\_\_ during his confinement under this warrant

Given under my hand and seal at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_

(SEAL)

Tax Recovery Officer

FORM No I T C P 28

[See rules 77, 78 and 79 of the Second Schedule to the Income-tax Act, 1961]

Order of release

Office of the Tax Recovery Officer,

To

The Officer-in charge of the Civil Prison of

Under orders passed this day, you are hereby directed to forthwith set free \_\_\_\_\_ who is now in your custody as a result of the warrant of detention issued by the undersigned on the \_\_\_\_\_ day of \_\_\_\_\_

Given under my hand and seal at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_

(SEAL)

Tax Recovery Officer

## FORM No I T C P 29

Div. 4  
A

[See rule 85 of the Second Schedule to the Income-tax Act, 1961]

## Notice to legal representative

Office of the Tax Recovery Officer,

To

..

....

Whereas certificate No \_\_\_\_\_ dated \_\_\_\_\_ has been forwarded  
by the Income-tax Officer, \_\_\_\_\_, for the recovery of arrears  
amounting to Rs \_\_\_\_\_ from \_\_\_\_\_  
(defaulter)

And whereas the said \_\_\_\_\_ has since died,

You are hereby given notice that steps will be taken under all or any of the provisions of the Second Schedule to the Income-tax Act, 1961, to recover the said amount from you together with the interest payable under section 220(2) of that Act for the period commencing immediately after the said date of issue of the certificate and the costs, charges and expenses incurred in respect of warrants and other processes issued and all other proceedings taken for realising the arrears unless the outstanding amount of Rs \_\_\_\_\_ in respect of the certificate together with costs, charges and expenses incurred so far amounting to Rs \_\_\_\_\_ and the interest aforesaid is paid by you within fifteen days from the date of service of this notice

(SEAL)

Tax Recovery Officer

N B —Attention is invited to rule 16 of the Second Schedule to the Income tax Act, 1961, which is reproduced below —

" 16 (1) Where a notice has been served on a defaulter under rule 2, the defaulter or his representative in interest shall not be competent to mortgage, charge, lease or otherwise deal with any property belonging to him except with the permission of the Tax Recovery Officer, nor shall any civil court issue any process against such property in execution of a decree for the payment of money

(2) Where an attachment has been made under this Schedule, any private transfer or delivery of the property attached or of any interest therein and any payment to the defaulter of any debt, dividend or other monies contrary to such attachment, shall be void as against all claims enforceable under the attachment "

## FORM No I T C P 30

[See rule 88 of the Second Schedule to the Income-tax Act, 1961]

## Notice to surety

Office of the Tax Recovery Officer,

Date

Div 4 To  
A

Whereas you are a surety for the arrears amounting to Rs due from \_\_\_\_\_ in respect of certificate No dated \_\_\_\_\_ forwarded by the Income-tax Officer, \_\_\_\_\_, and whereas it has become necessary to recover the said arrears from you, you are hereby given notice that steps will be taken under all or any of the provisions of the Second Schedule to the Income-tax Act, 1961, to recover the said amount from you together with the interest payable under section 220(2) of that Act for the period commencing immediately after the said date of issue of the certificate and the costs, charges and expenses incurred in respect of warrants and other processes issued and all other proceedings taken for realising the arrears unless the outstanding amount of Rs \_\_\_\_\_ in respect of the certificate together with costs, charges and expenses incurred so far amounting to Rs \_\_\_\_\_ and the interest aforesaid is paid by you within fifteen days from the date of service of this notice

(SEAL)

*Tax Recovery Officer*

*N B* —Attention is invited to rule 16 of the Second Schedule to the Income tax Act, 1961, which is reproduced below —

"16 (1) Where a notice has been served on a defaulter under rule 2, the defaulter or his representative in interest shall not be competent to mortgage, charge, lease or otherwise deal with any property belonging to him except with the permission of the Tax Recovery Officer, nor shall any civil court issue any process against such property in execution of a decree for the payment of money

(2) Where an attachment has been made under this Schedule, any private transfer or delivery of the property attached or of any interest therein and any payment to the defaulter of any debt, dividend or other monies contrary to such attachment, shall be void as against all claims enforceable under the attachment "

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## B

### THE INCOME-TAX (REMOVAL OF DIFFICULTIES) ORDER, 1962

(Notification No S O 2564, dated the 8th August, 1962)

In exercise of the powers conferred by section 298 of the Income tax Act, 1961 (XLIII of 1961), the Central Government hereby makes the following Order, namely —

1. Short title —This Order may be called the Income tax (Removal of Difficulties) Order, 1962

2 Registration and refund proceedings to be regarded as part of assessment proceedings —For the purposes of clauses (a) and (b) of sub-section (2) of section 297 of the Income-tax Act, 1961 (XLIII of 1961) (hereinafter referred to as the repealing Act), proceedings relating to registration of a firm or a claim for refund of tax shall be regarded as a part of the proceedings for the assessment of the person concerned for the relevant assessment year

3 Completion of assessments in cases covered by section 297(2)(b) of the repealing Act.—In cases covered by clause (b) of sub-section (2) of section 297 of the repealing Act, the assessments shall be made, *inter alia*, in accordance with the procedure specified in the following sections of the repealing Act, in so far as they may be relevant for this purpose —

Sections 131 to 136, 140 to 146, 153 [except sub-section (2) and clause (iii) of sub section (3)], 156 to 158, 185, 187 to 189, 282 to 284 and 288

4. Appeal, reference or revision proceedings in respect of orders passed under the repealed Act —(1) Proceedings by way of the first or subsequent appeals, reference or revision in respect of any order made under the Indian Income tax Act, 1922 (XI of 1922) (hereinafter referred to as the repealed Act), shall be instituted and disposed of as if the repealing Act had not been passed

(2) Any such proceeding instituted under the repealing Act after the 31st day of March, 1962, and before the date of this Order shall be deemed to have been instituted under the repealed Act and shall be disposed of as if the repealing Act had not been passed

Provided that if any such proceeding has been disposed of before the date of this Order under any provision of the repealing Act, it shall be deemed to have been disposed of under the corresponding provision of the repealed Act and any appeal, reference or revision in respect of the proceeding so disposed of shall be instituted and disposed of as if the repealing Act had not been passed

### THE INCOME-TAX (REMOVAL OF DIFFICULTIES) ORDER NO 2 OF 1963

(Notification No S O 1659, dated the 11th June, 1963)

In exercise of the powers conferred by section 298 of the Income tax Act, 1961 (XLIII of 1961), the Central Government hereby makes the following Order, namely —

1 Short title and commencement —(1) This Order may be called the Income-tax (Removal of Difficulties) Order No 2 of 1963

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B

(2) It shall be deemed to have come into force on the 1st day of April, 1962

2 Applicability of section 273 of Act XLIII of 1961 in certain cases — Where in respect of the financial year commencing on the 1st day of April, 1961, an assessee has furnished an estimate of the tax payable by him under sub-section (2) or sub section (3) of section 18A of the Indian Income tax Act, 1922 (XI of 1922) (hereinafter referred to as the repealed Act), which he knew or had reason to believe to be untrue, or where he has without reasonable cause failed to furnish an estimate of the tax payable by him under sub section (3) of section 18A of the repealed Act in respect of the said financial year, the provisions of section 273 of the Income-tax Act, 1961 (XLIII of 1961), shall apply as if the references in that section to the provisions of section 212, Chapter XVII-C, section 215, section 210 and section 217 were, so far as may be, references to the corresponding provisions of section 18A of the repealed Act

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# THE INCOME-TAX (DETERMINATION OF EXPORT PROFITS) RULES, 1962

*(Notification No S O 2738, dated the 1st September, 1962)*

In exercise of the powers conferred by clause (u) of sub-section (5) of section 2 of the Finance (No 2) Act, 1962 (XX of 1962), the Central Board of Revenue hereby makes the following rules, namely —

**1 Short title** —These rules may be called the Income-tax (Determination of Export Profits) Rules, 1962

**2 Computation of qualifying income** —(1) Where an assessee referred to in clause (i) of sub-section (5) of section 2 of the Finance (No 2) Act, 1962 (XX of 1962), carries on any business of exporting goods or merchandise out of India, the amount of the profits and gains of such business with reference to which deduction of tax is admissible under that sub-section (hereinafter referred to as the "qualifying income") shall be computed in accordance with the provisions of sub-rule (2) or sub-rule (3) or sub-rule (4) of this rule, as the case may be

(2) Where in the opinion of the Income-tax Officer it is possible to ascertain the profits and gains on such exports, the amount of qualifying income shall be taken as the excess of the amount of the profits and gains so ascertained in accordance with the provisions of the Income-tax Act, 1961 (XLIII of 1961) (hereinafter referred to as the Act), and included in the total income over the aggregate of the amount of any portion thereof on which income-tax or super-tax is not payable and the amount in respect of which a deduction of income-tax or super-tax has been granted under any provision of the Act

(3) Where in the opinion of the Income-tax Officer the profits and gains on such exports cannot be ascertained, the amount of qualifying income shall be taken as a fraction of the profits and gains of the whole business of which such exports form a part and included in the total income (as reduced by the aggregate of the amount of any portion thereof on which income-tax or super-tax is not payable and the amount in respect of which a deduction of income-tax or super-tax has been granted under any provision of the Act), the fraction being proportional to the value of the turnover of such exports in relation to the total turnover of the business of which such exports form a part

(4) Where in the opinion of the Income-tax Officer the computation of such profits and gains in the manner indicated in sub-rule (3) presents exceptional difficulties, the amount of qualifying income shall be taken as the excess of such profits and gains ascertained by the Income tax Officer on any other reasonable basis on the data available and included in the total income over the aggregate of the amount of any portion thereof on which income-tax or super-tax is not payable and the amount in respect of which a deduction of income-tax or super-tax has been granted under any provision of the Act

# THE INCOME-TAX (DETERMINATION OF EXPORT PROFITS) RULES, 1963

*(Notification No S O 1981, dated the 9th July, 1963)*

In exercise of the powers conferred by clause (vi) of sub-section (5) of section 2 of the Finance Act, 1963 (XIII of 1963), the Central Board of Revenue hereby makes the following rules, namely —

**1. Short title** —These rules may be called the Income tax (Determination of Export Profits) Rules, 1963

**2 Computation of qualifying income** —(1) Where an assessee referred to in clause (i) of sub section (5) of section 2 of the Finance Act, 1963 (XIII of 1963), exports any goods or merchandise out of India, the amount of the profits and gains derived from such exports with reference to which deduction of tax is admissible under that sub-section (hereinafter referred to as the “qualifying income”) shall be computed in accordance with the provisions of sub-rule (2) or sub-rule (3) or sub-rule (4) of this rule, as the case may be

(2) Where in the opinion of the Income-tax Officer it is possible to ascertain the profits and gains on such exports, the amount of the qualifying income shall be taken as the excess of the amount of the profits and gains so ascertained in accordance with the provisions of the Income tax Act, 1961 (XLIII of 1961) (hereinafter referred to as the Act), and included in the total income over the aggregate of the amount of any portion thereof on which income tax or super-tax is not payable and the amount in respect of which a deduction of income-tax or super-tax has been granted under any of the provisions of the Act

(3) Where in the opinion of the Income-tax Officer the profits and gains on such exports cannot be ascertained, the amount of the qualifying income shall be taken as a fraction of the profits and gains of the whole business of which such exports form a part and included in the total income (as reduced by the aggregate of the amount of any portion thereof on which income tax and super-tax is not payable and the amount in respect of which a deduction of income-tax or super tax has been granted under any of the provisions of the Act), the fraction being proportional to the value of the turnover of such exports in relation to the total turnover of the business of which such exports form a part

(4) Where in the opinion of the Income-tax Officer the computation of such profits and gains in the manner indicated in sub-rule (3) presents exceptional difficulties, the amount of the qualifying income shall be taken as the excess of such profits and gains ascertained by the Income tax Officer on any other reasonable basis on the data available and included in the total income over the aggregate of the amount of any portion thereof on which income tax or super-tax is not payable and the amount in respect of which a deduction of income tax or super-tax has been granted under any of the provisions of the Act



# D

## THE TAXATION LAWS (EXTENSION TO UNION TERRITORIES) REGULATION, 1963

(REGULATION No III OF 1963)

*A Regulation to extend certain laws relating to taxation to the Union territories of Dadra and Nagar Haveli, Goa, Daman and Diu, and Pondicherry and for matters connected therewith*

In exercise of the powers conferred by article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by him —

**1 Short title and commencement** —(1) This Regulation may be called the Taxation Laws (Extension to Union Territories) Regulation, 1963.

(2) It shall come into force on the 1st day of April, 1963.

**2 Definitions** —In this Regulation, unless the context otherwise requires,—

(a) "Act" means an Act specified in the Schedule ,

(b) "Union territory" means any of the Union territories of Dadra and Nagar Haveli, Goa, Daman and Diu, and Pondicherry

**3 Extension with amendments of certain taxation laws to the Union territories and their commencement therein** —(1) The Acts specified in Part I of the Schedule shall extend to, and come into force in, each of the Union territories of Dadra and Nagar Haveli, Goa, Daman and Diu, and Pondicherry on the 1st day of April, 1963, subject to the modifications, if any, specified in that Part

(2) The Acts specified in Part II of the Schedule shall extend to, and come into force in, the Union territories of Goa, Daman and Diu, and Pondicherry on the 1st day of April, 1963, and shall, in their application to those territories and the Union territory of Dadra and Nagar Haveli, be subject to the modifications, if any, specified in that Part

(3) Any reference in the provisions of any Act referred to in sub section (1) or sub-section (2) to the commencement thereof shall, in relation to a Union territory, be construed as a reference to the 1st day of April, 1963

**4 Repeal and savings** —(1) Any law in force in a Union territory corresponding to any Act specified in the Schedule shall stand repealed on the 1st day of April, 1963

(2) Notwithstanding the repeal by sub section (1) of any law referred to therein, that law shall continue to have effect in the Union territory for the purposes of the levy, assessment and collection of any tax or duty leviable under such law before the 1st day of April, 1963, except in so far as the income (including profits and gains) or property in respect of which such tax or duty is leviable is liable to assessment under any Act specified in the Schedule for the assessment year commencing on the 1st day of April, 1963, or for any subsequent year, and for any other purpose whatsoever connected with or incidental to such levy, assessment and collection

Provided that any reference in any such law to an officer, authority, tribunal or court shall be construed as a reference to the corresponding officer, authority, tribunal or court appointed or constituted by or under the

Div 4 D corresponding Act specified in the Schedule and if any question arises as to who the corresponding officer, authority, tribunal or court is, the decision of the Central Government thereon shall be final

(3) Without prejudice to the provisions contained in sub section (2), section 6 of the General Clauses Act, 1897 (X of 1897), shall apply in relation to the repeal of any law referred to in sub-section (1) as if the law so repealed had been an enactment within the meaning of section 6 of that Act

5 Extension of rules, orders, etc —All rules, notifications and orders made or issued under the provisions of any Act shall, in so far as they do not extend to, and are not in force in, a Union territory immediately before the 1st day of April, 1963, extend to, and come into force in, that Union territory as from that date

6 Rules of construction —(1) In any Act or in any of the rules, notifications or orders made or issued thereunder, any reference to any provision of law not in force or to any functionary not in existence in a Union territory shall be construed as a reference to the corresponding law in force or to the corresponding functionary in existence in that Union territory

Provided that—

- (i) if any question arises as to who such functionary is, or
- (ii) if there is no such corresponding functionary,

the Central Government shall decide as to who such functionary will be and its decision shall be final

(2) For the purpose of facilitating the application in relation to a Union territory of any Act or any rule, notification or order made or issued there under, any court or other authority may construe it in such manner, not affecting the substance, as may be necessary or proper to adapt it to the matter before the court or other authority

7 Power to remove difficulties —If any difficulty arises in giving effect in any Union territory to the provisions of any Act, or of any rule, notification or order made or issued thereunder, the Central Government may, by general or special order published in the Official Gazette, make such provisions or give such directions as appear to it to be expedient or necessary for the removal of the difficulty

## THE SCHEDULE

### PART I

[See section 3(1)]

| Year<br>1 | No<br>2 | Short title<br>3                                      | Modifications<br>4 |
|-----------|---------|-------------------------------------------------------|--------------------|
| 1926      | III     | The Government Trading Taxation Act, 1926             |                    |
| 1949      | XXII    | The Payment of Taxes (Transfer of Property) Act, 1949 |                    |

| Year<br>1 | No<br>2 | Short title<br>3          | Modifications<br>4                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|-----------|---------|---------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1953      | XXXIV   | The Estate Duty Act, 1953 | <p>In section 2, after clause (9), insert—</p> <p>“(9A) “High Court”, in relation to the Union territories of Dadra and Nagar Haveli and Goa, Daman and Diu, means the High Court at Bombay,”</p> <p>In clause (d) of sub section (1) of section 3, insert at the end—</p> <p>“and as if the Union territories of Dadra and Nagar Haveli, Goa, Daman and Diu, and Pondicherry had always been part of India ”</p> <p>In sub section (1) of section 5, after the words “First Schedule to this Act ”, insert “and in the Union territories of Dadra and Nagar Haveli, Goa, Daman and Diu, and Pondicherry ”</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 1957      | XXVII   | The Wealth tax Act, 1957  | <p>In section 2—</p> <p>(i) in clause (h), omit the word “ and ” at the end of sub clause (i) and after sub clause (ii), insert—</p> <p>“(iii) a company within the meaning of any law relating to companies for the time being in force in the Union territory of Dadra and Nagar Haveli, Goa, Daman and Diu, or Pondicherry and any association in any such Union territory, whether incorporated or not, which is declared by general or special order of the Board to be a company for the purposes of this Act ,”,</p> <p>(ii) after clause (i), insert—</p> <p>“(i a) “High Court”, in relation to the Union territories of Dadra and Nagar Haveli and Goa, Daman and Diu, means the High Court at Bombay ,’,</p> <p>(iii) after clause (k), insert—</p> <p>“(k a) “India ” shall be deemed to include the Union territories of Dadra and Nagar Haveli, Goa, Daman and Diu, and Pondicherry—</p> <p>(i) as respects any period, for the purposes of section 6, and</p> <p>(ii) as respects any period included in the year ending with the valuation date, for the purpose of making any assessment for the assessment year commencing on the 1st day of April, 1963, or for any subsequent year ,’</p> <p>In section 4, after sub section (4), insert—</p> <p>“(4A) Notwithstanding anything in sub section (4), nothing contained in clause (a) of sub section (1) shall apply to any such transfer as is referred to</p> |

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D

| Year<br>1 | No<br>2 | Short title<br>3       | Modifications<br>4                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|-----------|---------|------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|           |         |                        | <p>therein made before the 1st day of April, 1963, by an individual who but for the extension of this Act to the Union territories of Dadra and Nagar Haveli, Goa, Daman and Diu, and Pondicherry, would not have been an assessee, and the value of any assets so transferred shall not be included in the computation of his net wealth "</p> <p>In section 44, after the words "or a legal practitioner or a chartered accountant", insert "or any person who before the coming into force of this Act in the Union territory of Dadra and Nagar Haveli, Goa, Daman and Diu, or Pondicherry attended before an Income tax authority in the said territory on behalf of any assessee otherwise than in the capacity of an employee or relative of that assessee "</p> <p>After section 46, insert—</p> <p><i>"46A Power to make exemption, etc, in relation to certain Union territories—</i><br/>If the Central Government considers it necessary or expedient so to do for avoiding any hardship or anomaly or removing any difficulty that may arise as a result of the application of this Act to the Union territories of Dadra and Nagar Haveli, Goa, Daman and Diu, and Pondicherry, or in the case of the Union territory of Pondicherry, for implementing any provision of the Treaty of Cession concluded between France and India on the 28th day of May, 1956, that Government may, by general or special order, make an exemption, reduction in rate or other modification in respect of wealth tax in favour of any class of assets or in regard to the whole or any part of the net wealth of any assessee or class of assessees</p> <p>Provided that the power conferred by this section shall not be exercisable after the 31st day of March, 1967, except for the purpose of rescinding an exemption, reduction or modification already made "</p> |
| 1958      | XVIII   | The Gift-tax Act, 1958 | <p>In section 2—</p> <p>(v) for clause (vi), substitute—</p> <p><i>"(vi) "company " means a company as defined in section 3 of the Companies Act, 1956, and includes—</i><br/>(a) a foreign company within the meaning of section 591 of that Act, and<br/>(b) a company within the meaning of any law relating to companies for the time being in force in the Union territory of Dadra and Nagar Haveli, Goa, Daman and Diu, or</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |

## EXTENSION TO UNION TERRITORIES

## PART II

[ See section 3(2) ]

| Year<br>1 | No<br>2 | Short title<br>3            | Modifications<br>4                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|-----------|---------|-----------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1961      | XLIII   | The Income tax Act,<br>1961 | <p>In section 2—</p> <p>(i) after clause (25), insert—</p> <p>“(25A) “India” shall be deemed to include the Union territories of Dadra and Nagar Haveli, Goa, Daman and Diu, and Pondicherry,—</p> <p>(a) as respects any period, for the purposes of section 6, and</p> <p>(b) as respects any period included in the previous year, for the purposes of making any assessment for the assessment year commencing on the 1st day of April, 1963, or for any subsequent year, ’,</p> <p>(ii) in clause (26)—</p> <p>(a) in sub clause (i), for the brackets and words “(other than the State of Jammu and Kashmir)”, substitute “(other than the State of Jammu and Kashmir and the Union territories specified in sub clause (iii) of this clause)”,</p> <p>(b) after sub clause (ii), insert—</p> <p>“(iii) in the case of any of the Union territories of Dadra and Nagar Haveli, Goa, Daman and Diu, and Pondicherry, a company formed and registered under any law for the time being in force in that Union territory,”</p> <p>In section 269, omit the word “and” at the end of clause (iv) and after clause (v), insert—</p> <p>“(vi) in relation to the Union territories of Dadra and Nagar Haveli and Goa, Daman and Diu, the High Court at Bombay, and</p> <p>(vii) in relation to the Union territory of Pondicherry, the High Court at Madras ”</p> <p>In section 288, in sub section (2), after clause (vi), insert—</p> <p>“(vi-a) any person who, before the coming into force of this Act in the Union territory of Dadra and Nagar Haveli, Goa, Daman and Diu, or Pondicherry, attended before an Income tax authority in the said territory on behalf of any assessee otherwise than in the capacity of an employee or relative of that assessee, or ”</p> |

# E

## TAX CLEARANCE CERTIFICATES\*

### PERSONS EXEMPT FROM PROVISIONS OF SEC 46A OF 1922 ACT

(Notification No S R O 961, dated the 25th May, 1953)

In exercise of the powers conferred by sub section (1) of section 46A of the Indian Income tax Act, 1922 (XI of 1922), the Central Government hereby directs that the provisions of the said section shall not apply to the following persons, namely —

- 1 all persons below the age of eighteen years ,
- 2 persons who are not domiciled in India, provided that the total period spent in India does not exceed ninety days,
- 3 (a) all persons who are for the time being holding any civil post under the Union or a State or a local authority, and all persons who are for the time being holding posts connected with defence  
(b) all persons whose salaries or emoluments are fixed by law or are specified in the Second Schedule to the Constitution or are determined under article 186 or 221 read with article 238 (8) and 238 (13) respectively ,  
(c) the wives of the persons referred to in clauses (a) and (b) ,  
(d) British Officers and other Ranks proceeding *ex-India* on termination of their contract of service with the Government of India and the wives of such Officers ,
- 4 (a) all Diplomatic Envoys of Foreign and Commonwealth countries accredited to India and their wives ,  
(b) Foreign Consular Officers *de carrière* posted in India and their wives,  
(c) Trade Commissioners and Trade Agents *de carrière* of Foreign and Commonwealth countries posted in India and their wives ,  
(d) members of the staff of the establishment of any of the officers mentioned in clauses (a), (b) and (c) above provided they are nationals of the country represented by that officer, and are whole time employees of the Government of that country and are not engaged in a private occupation for gain in India and their wives , and  
(e) officials of the United Nations and Specialised Agencies of the United Nations to whom the United Nations (Privileges and Immunities) Act, 1947 (LXVI of 1947), is applicable and their wives ,
- 5 (a) officials and representatives of Foreign and Commonwealth Governments visiting India on the business of their Governments and their wives ,  
(b) officials of Foreign and Commonwealth Governments functioning in India who are exempt from payment of income-tax under an

\*1 S 46A of the 1922 Act corresponds to s 230 of the 1961 Act Under s 297(2)(k) of the 1961 Act, these Notifications are deemed to have been issued under s 230 of that Act and continue in force accordingly

2 The provisions corresponding to the Income tax (Tax Clearance Certificates) Rules, 1953, are now to be found in rr 42 44 of the Income tax Rules, 1962

agreement entered into between the said Government and the Government of India and the wives of such officials, Div 4  
E

- 6 (a) all persons permitted by the Protector of Emigrants to depart out of India to Ceylon, Burma or Malaya for unskilled work ,  
(b) all persons permitted by the Protector of Emigrants under section 17 of the Indian Emigration Act, 1922 (VII of 1922), to be recruited for being engaged on skilled work in an overseas country except those in respect of whom the Protector of Emigrants declares that a Tax Clearance or an Exemption Certificate is necessary ,
- 7 (a) all Seamen holding Indian Continuous Discharge Certificates proceeding from India under an agreement of service with a ship-owner or an Agent or Master of a ship, provided that the employers agree to be responsible for the payment of tax due from the Seamen in respect of their wages ,  
(b) all Seamen holding Foreign Continuous Discharge Certificates proceeding from India under an agreement of service with a ship-owner or an Agent or Master of a ship, provided that their preceding stay in India was of a duration not exceeding 90 days ,
- 8 (a) all persons proceeding on pilgrimage by sea to the Hejaz, provided that they travel in deck class on pilgrim ships with return tickets, hold pilgrim passes, and are not in possession of international passports ,  
(b) all persons proceeding on pilgrimage by sea to IRAN AND IRAQ, provided that they travel in deck class with return tickets, hold pilgrim passes, and are not in possession of international passports

Provided that subject to such general or special directions as the Central Government may issue, a competent authority may, at his discretion, require any of the aforesaid persons to obtain from him a tax clearance or an exemption certificate

## COMPETENT AUTHORITY FOR PURPOSES OF SEC 46A OF 1922 ACT

*(Notification No S R O 963, dated the 25th May, 1953)*

In pursuance of the provisions of section 46A of the Indian Income-tax Act, 1922 (XI of 1922), the Central Government hereby appoints every Income-tax Officer (Foreign Section) subordinate to any of the Commissioners of Income-tax specified in the Schedule hereto annexed as a competent authority for the purposes of the said section

### SCHEDULE

- 1 The Commissioner of Income tax, Bombay City
- 2 The Commissioner of Income tax, West Bengal, Calcutta
- 3 The Commissioner of Income tax, Delhi
- 4 The Commissioner of Income tax, Madras
- 5 The Commissioner of Income tax, Hyderabad
- 6 The Commissioner of Income tax, Bombay North, Baroda
- 7 The Commissioner of Income tax, Travancore Cochin, Bangalore
- 8 The Commissioner of Income tax, Bihar and Orissa, Patna

# F

## EXEMPTIONS FROM TAX AND OTHER NOTIFICATIONS

### EXEMPTIONS, ETC , NOTIFIED UNDER SEC 60(1) OF 1922 ACT\*

#### I

#### Incomes excluded from total income altogether

(Finance Department Notification No 878 F—Income tax, dated the 21st March, 1922, as amended or added to from time to time)

The following classes of income shall be exempt from the tax payable under the said Act and they shall not be taken into account in determining the total income or salary of an assessee for the purposes of the said Act †[except for the purposes of sub section (4) of section 48] —

(1) Deleted by Government of India, Finance Department (Central Revenues), Notification No 8—Income tax, dated the 24th January, 1942

(2) Sums paid in pursuance of Article 3 of the agreement, dated the 17th August, 1825, between the British Government and the King of Oudh

(3) Income derived from the Bua tax defined in clause (c) of section 2 of the Teri Dues Regulation, 1902

(4) The salary and allowances paid by a State in India during the period of deputation to any person deputed by the State for training in British India

(5) Scholarships granted to meet the cost of education (See sec 10(16) of the 1961 Act )

(6) Such portion of the income of a member of His Majesty's Naval, Military or Air Forces, British or Indian, or of the Royal Indian Marine as is compulsorily payable by him under the orders, or with the approval of Government to a mess, wine or band fund

(7) The allowances attached to—

- The Victoria Cross
- The Military Cross
- The Order of British India
- The Indian Order of Merit
- The King's Police Medal
- The Indian Police Medal

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\* Under s 279(2)(1) of the 1961 Act, these Notifications shall, to the extent to which provision has not been made under that Act, continue in force until rescinded by the Central Government

† The reference to sub sec (4) of s 48 in the preamble of this notification is a reference to the old sub section before the amendments of 1939. The whole of s 48 was replaced by a new one by s 55 of the Indian Income tax (Amendment) Act, 1939 (VII of 1939), and the new sub sec (4) does not correspond to the old sub section. The reference to the old sub section is material only for the assessments up to and including the year 1938-39 and for certain cases for 1939-40 also where sub secs (4) and (5) of s 6 of the Indian Finance Act, 1939, apply. For assessments after the year 1939-40, the words "except for the purposes of sub section (4) of section 48" will be obsolete.



(8) *Deleted* by Notification No S O 1839, dated the 25th June, 1963, with effect from the 1st April, 1963 Div 4  
F

(9) "Jangi Inams" awarded to Indian Officers, Indian other ranks and followers in respect of services in the Great War

(10) *Deleted* } by Notification No S R O 1335, dated the 21st June, 1955,  
(11) *Deleted* } with effect from the 1st April, 1955

(12) The income of a University or other educational institution existing solely for educational purposes and not for purposes of profit (*See sec 10(22) of the 1961 Act*)

(13) The income of "Thana Funds" administered by Political Agents in Kathiawar and of the "Secunderabad Local (Akbari, etc) Fund" administered by the Resident at Hyderabad

(13-A) The income of the Rewa Kantha Mewas Administrations Fund, and of the Sankheda Mewas Road Fund administered by the Political Agent, Rewa Kantha

(13 B) The income of—

(a) the following funds controlled by the Resident for the States of Western India, namely —

The Kathiawar Consolidated Local Fund, the Rajkot Civil Station Land Improvement Fund, the Rajkot Civil Station Fund, the Kathiawar Mounted Police Fund, the Consolidated Local Fund, Mahi Kantha, the Consolidated Local Fund, Banas Kantha, including the Palanpur Agency Educational, Sihori, Deodar, Varahi, Santalpur Dispensaries, and Survey Funds, and the Sadar Bazar Fund,

(b) the village Police Funds, Konkrej, Deodar, Sugam, Vaichi, Santalpur, controlled by the Political Agent, Sabar Kantha Agency, and

(c) the Wadhwan Civil Station Fund controlled by the Political Agent, Eastern Kathiawar Agency

(13-C) *Deleted* by F D (C R) Notification No 13—Income tax, dated the 24th December, 1938

(13 D) The income of Regimental Institutes derived from rebates payable by Institute Contractors

(13 E) The interest on securities held by the Kathiawar Education Provident Fund

(13-F) The income of recognised Regimental Thrift and Savings Funds, the assets of which consist solely of deposits made by members and the profits earned by the investment thereof

(13-G) The income of the Kolhapur Residency Area Fund

(14) *Deleted* } by Government of India, Finance Department (Central  
(15) *Deleted* } Revenues), Notification No 8—Income-tax, dated the  
(16) *Deleted* } 24th January, 1942

(16 A) *Deleted* by Government of India, Finance Department (Central Revenues), Notification No 13—Income-tax, dated the 29th March, 1941

(16 B) *Deleted* by Government of India, Finance Department (Central Revenues), Notification No 8—Income-tax, dated the 24th January, 1942

(17) The salaries of the correspondent of the International Labour Office, New Delhi, and his staff

(18) The salaries of the Organiser and Manager of the Branch Office of the League of Nations, Bombay, and his staff

(19) The salaries of Khasadars, Levies and Badraggas employed in the tribal territory on the North-West Frontier and of all persons employed in the tribal levy service in Baluchistan

(20) Deleted }

(21) Deleted } by F D (C R ) Notification No 5—Income tax, dated

(22) Deleted } the 18th March, 1939

(23) Deleted }

(24) Deleted by Notification No S R O 272, dated the 28th February, 1951, with effect from the 1st March, 1951

(25) The salaries of the light-house keepers of light-houses in the Red Sea

(26) Deleted by Notification No S R O 272, dated the 28th February, 1951, with effect from the 1st March, 1951

(27) The interest on Mysore Durbar Securities (By Notification No S R O 2338, dated the 5th July, 1954, this item is omitted for the purposes of making any assessment subsequent to the year ending on the 31st March, 1954 )

(28) Pensions granted to officers of His Majesty's Naval, Military or Air Forces, British or Indian, or of the Auxiliary Force, India, or of the Indian Territorial Force, or of the Royal Indian Marine in respect of wounds or injuries received in action or in the performance of their duties as members of such forces otherwise than in action

(28-A) Extraordinary pensions granted to Civil Officers excluding family pensions granted as the result of the death of such an officer under Chapter XXXVIII of the Civil Service Regulations, or the Army Regulations, India, as the case may be, in respect of wounds or injuries received in the performance of their duties

(29) Pensions granted to members of His Majesty's Naval, Military or Air Forces, British or Indian, or of the Auxiliary Force, India, or of the Indian Territorial Force, or of the Royal Indian Marine, who have been invalided from service with such forces on account of bodily disability attributable to, or aggravated by, such service

(30) Value of rations issued in kind or money allowances paid in lieu thereof, to any officer or other rank in His Majesty's Naval, Military or Air Forces, British or Indian, or in the Auxiliary Force, India, or in the Indian Territorial Force, or in the Royal Indian Marine

(31) Value of rent-free quarters occupied by, or money allowance paid in lieu thereof to, Indian Officers, British Warrant and non-commissioned officers and men of His Majesty's Military or Air Forces, and British and Indian Warrant Officers of His Majesty's Naval and Marine Forces, in all cases irrespective of whether the individual concerned is married or single

(32) Conservancy allowance granted in lieu of free conservancy to non departmental Warrant and non-commissioned officers of the India Unattached List, departmental non commissioned officers of the India Unattached List not in receipt of consolidated rates of pay and Warrant and non-commissioned officers of the permanent staff of the Auxiliary and Territorial Forces

(33) The value of the free education provided for the children of British Warrant and non-commissioned officers and any grants in-aid made to British Warrant and non-commissioned officers in lieu of the provision of free education for their children Div 4  
F

(34) Deleted by Government of India, Finance Department (Central Revenues), Notification No 6— Income tax, dated the 13th July, 1940

(35) Deferred pay within the meaning of paragraph 254, Pay and Allowance Regulations for the Army in India, Part II (*now rules 561-565, Pay and Allowance Regulations, Volume I, read with A I (I) 221 of 1942*) paid to (Indian) soldiers or non-commissioned officers of the Indian Army

NOTE —Indian Warrant Officers Class II who are also non commissioned officers, though not called as such, are entitled to the deferred pay and are also eligible for the exemption

(35-A) Shore allowance granted to Warrant Officers of the Royal Indian Navy when employed on Marine Survey duties under paragraph 89(c) of the Regulations for the Royal Indian Navy, Volume I

(36) Deleted by Notification No S R O 1335, dated the 21st June, 1955, with effect from the 1st April, 1955

(37) The perquisite represented by the right of any of the officers specified in the annexed list to occupy free of rent as a place of residence any premises provided by the Central Government, the Crown Representative or the State Government as the case may be

#### *List of Officers*

The President

The Commander-in-Chief

The Governor of a Part A State

\*\* Deleted by Notification No S R O 1536, dated the 30th June, 1956

Any first class Resident of the Indian Political Department Service

(38) Such part of income in respect of which the said tax is payable under the head "property" as is equal to the amount of rent payable for a year but not paid by a tenant of the assessee and so proved to be lost and irrecoverable, where—

- (a) the tenancy is *bona fide*,
- (b) the defaulting tenant has vacated, or steps have been taken to compel him to vacate the property,
- (c) the defaulting tenant is not in occupation of any other property of the assessee,
- (d) the assessee has taken all reasonable steps to institute legal proceedings for the recovery of the unpaid rent or satisfies the Income-tax Officer that legal proceedings would be useless, and
- (e) the annual value of the property to which the unpaid rent relates has been included in the assessed income of the year during which that rent was due and income-tax has been duly paid on such assessed income (*See sec 24 (1)(x) of the 1961 Act and r 4 of the 1962 Rules*)

(39) The lump grants made by Government to the Indian Church—

- (1) for the provision of episcopal supervision and ministrations,

iv 4  
F

- (2) for the payment of allowances to clergymen entertained in lieu of Chaplaincies reduced, and
- (3) in lieu of the grants-in-aid at present given for the entertainment of clergymen of the Additional Clergy Society under Articles 602 and 603 of the Civil Service Regulations

(40) When in any year an assessee has ceased to be an employee participating in a recognised Provident Fund and has been declared by the employer maintaining the Fund not to be eligible to receive the whole of the accumulated balance due to him, so much of his income as is assessable for that year shall be exempted from income-tax and shall be excluded from the computation of his total income for the purposes of the said Act as is equivalent to so much of the accumulated balance due to him as has not been paid or is not payable to him, and if such amount exceeds the amount of his income in that year, so much of his income in the following year or years as is equal to the amount of such excess shall be so exempted and excluded in such year or years

Provided that this exemption shall not apply to that part of the accumulated balance which consists of employer's contributions and interest thereon and is credited to the account of the employee after 1st August, 1961

(41) Income of a Service Fund derived from interest on Government securities or interest on funds deposited with the Central or any State Government

For the purpose of this exemption, a Service Fund means a fund established under the authority of, or with the permission of, the Central or any State Government for the purpose of securing deferred annuities to the subscribers, or payments to them in the event of their resignation or dismissal from the service in which they are employed, or provision for their wives or children after their death, or payments to their estate or their nominees upon their death, to which servants of the Government are alone admissible as subscribers or members and the funds of which are either deposited with the Central or any State Government or invested in Government securities

## II

### Income included in total income but exempt from income tax and not from super-tax

The following classes of income shall be exempt from the tax payable under the said Act, but shall be taken into account in determining the total income of an assessee for the purposes of the said Act —

(1) *Deleted* by Notification No 66—I T, dated the 28th May, 1957, and corrigendum F No 42 (216)—I T/56, dated the 27th December, 1957

(2) Such part of the profits or gains of a firm which has discontinued its business, profession or vocation as is proportionate to the share of an assessee in the firm at the time of such discontinuance, <sup>†</sup>[if income tax has at any time been charged on such business, profession or vocation under the Indian Income tax Act, 1918 (VII of 1918), or] if an assessment has been made on the firm in respect of such profits or gains under sub section (1) of

<sup>†</sup> This part of the Notification would no longer be in operation because in the 1961 Act there is no provision corresponding to s 25 (3) of the 1922 Act

section 25 of the Indian Income-tax Act, 1922 (XI of 1922) (F D (C R ) Div. 4  
Notification No 21, dated the 12th October, 1929 ) F

\* (3) Interest receivable on the following securities issued by the Mysore Government —

- (1) The Mysore Government 5 per cent Loan of 1955
- (2) The Mysore Government 4 per cent Conversion Loan 1953-63
- (3) Mysore 3½ per cent Loan 1951-58
- (4) Mysore 3 per cent Loan 1956 61
- (5) The Mysore Government 3 per cent Loan of 1958

\*(By notification No S R O 2338, dated the 5th July, 1954, this exemption applies for the purposes of making any assessment subsequent to the year ending on the 31st March, 1954 ).

### III

#### Incomes exempt from super-tax but not from income-tax

(Notification No 47, dated the 9th December, 1933)

The Governor General in Council is pleased to exempt from super-tax—

so much of the income of any Investment Trust Company as is derived from dividends paid by any other company which has paid or will pay super-tax in respect of the profits out of which such dividends are paid

*Explanation* —For this purpose an Investment Trust Company means a company in respect of which the Governor General in Council is satisfied that —

- (i) it is a company having for its principal business the acquisition and holding of investments in the stocks, shares, bonds, debentures or debenture stocks of other companies or in securities issued by public authorities,
- (ii) it is not a company formed for the purpose of, or engaged in acquiring or exercising control over any other company or group of companies or enabling any other persons to acquire or exercise such control,
- (iii) it is a company deemed under clause (b) of the *Explanation* to sub section (1) of section 23 A of the said Act, to be a company in which the public are substantially interested

(Notification No 9, dated the 21st February, 1948)

In exercise of the powers conferred by sub section (1) of section 60 of the Indian Income-tax Act, 1922 (XI of 1922), and in partial modification of the Notification of the Government of India in the late Finance Department (Central Revenues) No 47, dated the 9th December, 1933, the Central Government is pleased to order that the said Notification shall not, with effect from the assessment year 1948 49, apply to any Investment Trust Company the control and management of whose affairs is not situated wholly in the States of India

Div 4  
F

## Modification under sec 60 of 1922 Act

*(Notification No 23, dated the 11th June, 1927)*

In exercise of the powers conferred by section 60 of the Indian Income tax Act, 1922 (XI of 1922), the Governor General in Council is pleased to make the modification hereinafter defined in respect of income-tax in favour of the following class of income, namely income derived from a railway or tramway business

*Modification*

An assessee deriving income from a railway or tramway business may at his option require that in computing the profits or gains of such business the following allowance shall be made in lieu of the allowances specified in clause (v), clause (vi) and clause (vii) of sub section (2) of section 10 of the said Act, namely, the actual expenditure incurred by the assessee during the previous year on repairs, replacements and renewals of plant, machinery, buildings and furniture which are the property of the assessee

Provided that an assessee who in any year has exercised the option heretofore conferred shall not be entitled save with the consent of the Commissioner of Income-tax to withdraw that option in any subsequent year

Provided further that nothing in this notification shall apply to an electric tramway

# EXEMPTIONS NOTIFIED UNDER SEC 60A OF 1922 ACT\*

Div 4  
F

## I

*(Notification No S R O 669, dated the 1st May, 1951)*

In exercise of the powers conferred by section 60A of the Indian Income-tax Act, 1922 (XI of 1922), the Central Government hereby makes the following exemption —

No income tax or super-tax shall be payable by an assessee on the interest receivable on the 3 per cent tax-free loan 1966-76 issued by the former Government of Bhopal so long as such interest is received in the State of Bhopal and is not brought into any other part of the taxable territories. Such interest shall be included in the total income of the assessee for the purposes of sections 16 and 56 of the Indian Income-tax Act, 1922

## II

*(Notification No S R O 2068, dated the 22nd December, 1951)*

In exercise of the powers conferred by section 60A of the Indian Income-tax Act, 1922 (XI of 1922), the Central Government directs that any income received by the following persons as their maintenance allowance out of the public revenues shall be exempt from income-tax and super-tax and shall not be included in their total income or total world income —

- (1) Sir Tukoji Rao Holkar of Indore
- (2) His Highness Maharawal Shri Sir Indrasinhji Pratapsinhji, K C I E , of Bansda up to 13th November, 1951
- (3) Rana Shri Ranjitsinhji Gambhirsinhji, C I E , of Jambughoda
- (4) His Highness Shri Sir Bhavani Singh Bahadur, K C S I , of Danta

Thus Notification shall have effect from the assessment year 1950-51 onwards

## III

*(Order 68-st(Int)-IT 49, dated the 23rd May, 1952)*

Any income falling within the following classes shall be exempt from income-tax and super-tax and shall not be included in the total income or total world income of the persons receiving them —

(1) In the case of the members of the ruling family of Travancore, any allowance paid by Government to—

- (1) Her Highness Sethu Lakshmi Bayi, Senior Maharani of Travancore
- (2) His Highness the Elaya Raja Shri Marthanda Varma
- (3) Shrimati Lakshmi Bayi, First Princess of Travancore
- (4) Shrimati Lalitambha Bayi, Second Princess of Travancore
- (5) Shrimati Indira Bayi, Third Princess of Travancore
- (6) Gouri Rukmini Bayi, Fourth Princess of Travancore
- (7) Gouri Uma Bayi, Fifth Princess of Travancore

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\* It is a question whether these Notifications and Orders continue in force under s 297(2)(k) of the 1961 Act despite the fact that there is no provision in that Act corresponding to s 60A of the 1922 Act

- (8) Gouri Parvati Bayi, Sixth Princess of Travancore
- (9) Gouri Parvati Bayi Seventh Princess of Travancore
- (10) Gouri Laxmi Bayi, Eighth Princess of Travancore
- (11) Gouri Lalshmi Bayi, Ninth Princess of Travancore
- (12) Shri Rama Varma, First Prince of Travancore (Prince Moolam Thirunal)

(2) Any allowance paid by Government to the present members of the family of His Highness the Maharaja of Cochin

#### IV

(Circular No. 1172, dated the 22nd August, 1952)

The allowance of Rs. 5 lakhs paid to His Highness the Maharaja of Udipi to meet certain traditional religious and charitable expenses because of the special position of honour he occupied among the Rulers, should be treated as a part of the privy purse, and as such should not be included in the total income for purposes of income tax assessments. This concession is meant for the present Ruler only during his life time.

#### V

(Notification No. S. R. O. 1151, dated the 13th June, 1953)

In exercise of the powers conferred by section 60A of the Indian Income-tax Act, 1922 (XI of 1922) the Central Government hereby makes the following exemption —

No income tax shall be payable by an assessee on the interest receivable on the following income tax free loans issued by the former Government of Travancore or by the former Government of Cochin, provided that such interest is received within the territories of the State of Travancore Cochin and is not brought into any other part of the taxable territories to which the said Act applies. Such interest shall, however, be included in the total income of the assessee for the purposes of section 16 of the Indian Income tax Act, 1922 —

- 3 per cent tax free loan 1952-54 issued by the former Government of Travancore
- 3½ per cent tax free loan 1956 issued by the former Government of Travancore
- 3 per cent tax free loan 1953-55 issued by the former Government of Cochin
- 3 per cent tax free loan 1955-58 issued by the former Government of Cochin
- 3½ per cent tax free loan 1956-61 issued by the former Government of Cochin



## VI

Div 4  
F*(Notification No S R O 174, dated the 9th January, 1954)*

In exercise of the powers conferred by section 60A of the Indian Income tax Act, 1922 (XI of 1922), the Central Government hereby makes the following exemption, namely —

No income tax shall be payable by an assessee on the interest receivable on the income-tax free loans specified in the Table hereunder and issued by His Exalted Highness the Nizam's Government of Hyderabad

Provided that the said interest is received in the territories within the Hyderabad State and is not brought into any other part of the taxable territories to which the said Act applies

Provided further that such interest shall be included in the total income of the assessee for the purposes of section 16 of the said Act

## TABLE

|   |    |          |                                                      |
|---|----|----------|------------------------------------------------------|
| 1 | 3  | per cent | income-tax free loan 1360 70 Fash                    |
| 2 | 2½ | per cent | income-tax free loan 1353 Fash                       |
| 3 | 2½ | per cent | income tax free Development loan 1364 69 Fash        |
| 4 | 2½ | per cent | income-tax free Second Development loan 1365-70 Fash |

## VII

*(Notification No S R O 2339, dated the 5th July, 1954)*

In exercise of the powers conferred by section 60A of the Indian Income tax Act, 1922 (XI of 1922), the Central Government hereby makes the following order, namely —

No income-tax shall be payable by an assessee on the interest receivable on all deposits in the Mysore Government Savings Bank made before the 1st day of April, 1950, and on 5 years Mysore Government Savings Certificates issued prior to that date

Provided that, in the case of an assessee who would not have been resident in the taxable territories within the meaning of section 4A of the said Act but for the application of that Act to the Mysore State, the said interest is received within the territories of that State

Provided further that, in the case of any other assessee, the said interest is received within the territories of the Mysore State and is not brought into any other part of the taxable territories to which the said Act applies

Provided also that such interest shall be included in the total income of an assessee referred to in proviso last preceding and shall not be exempt from super-tax

## VIII

*(Notification No S R O 2340, dated the 5th July, 1954)*

In exercise of the powers conferred by section 60A of the Indian Income-tax Act, 1922 (XI of 1922), the Central Government hereby makes the following order, namely —

No income tax shall be payable by an assessee on the interest receivable on the fourth and fifth series of debentures carrying interest at 3½ per cent

4 per annum issued by the Mysore Central Co-operative Land Mortgage Bank  
F Ltd. and guaranteed by the Mysore Government

Provided that, in the case of an assessee who would not have been resident in the taxable territories within the meaning of section 4A of the said Act but for the application of that Act to the Mysore State, the said interest is received within the territory of that State

Provided further that, in the case of any other assessee, the said interest is received within the territories of the Mysore State and is not brought into any other part of the taxable territories to which the said Act applies

Provided also that such interest shall be included in the total income of such assessee and shall not be exempt from super tax

(C B R Circular F No 1(9) 58/TPL, dated the 3rd September, 1958)

## FORM R

*Name and address of the employer*

[illegible]

\*This Circular relates to the exemption granted under s 4(3)(vi a)(a) of the 1922 Act, which corresponds to s 10(6)(e) of the 1961 Act Under s 297(2)(l) of the 1961 Act this Circular is deemed to relate to the exemption granted under s 10(6)(e) of that Act and continues in force accordingly

[illegible]

Certified that the above particulars are correct

*Signature of the employer*

Date \_\_\_\_\_

**NOTIFICATION UNDER SEC 4(3)(ii-a) OF 1922 ACT\***Div 4  
F*(Notification No S O 2688, dated the 16th October, 1961)*

In exercise of the powers conferred by clause (ii-a) of sub section (3) of section 4 of the Indian Income-tax Act, 1922 (XI of 1922), the Central Government hereby specifies "golf" as one of the games for the purposes of the said clause

This notification shall have effect from the 1st April, 1961

**NOTIFICATIONS UNDER SEC 4(3)(xvii-b)(i) OF 1922 ACT\***

By Notifications No S R O 452 dated the 31st January, 1958, No S R O 453 dated the 31st January, 1958, No S O 1896 dated the 1st September, 1958, and No S O 1905 dated the 30th July, 1960, in exercise of its powers under sec 4(3)(xvii b)(i) of the Indian Income tax Act, 1922, the Central Government has accorded approval to (a) the International Finance Corporation, Washington, (b) the Export Import Bank of Washington, Washington DC, (c) the Export Import Bank of Japan, Tokyo, and (d) the Development Loan Fund, Columbia, U S A, respectively, for the purposes of exemption from Indian Income-tax on the interest payable by any industrial undertaking in India on moneys borrowed by it under a loan agreement entered into with the said foreign financial institutions

**NOTIFICATION UNDER SEC 10(15)(iv)(b) OF 1961 ACT***(Notification No S O 2610, dated the 24th July, 1962)*

In exercise of the powers conferred by paragraph (b) of sub clause (iv) of clause (15) of section 10 of the Income-tax Act, 1961 (XLIII of 1961), the Central Government hereby accords approval to the Kreditanstalt für Wiederaufbau (West German Bank for Reconstruction), West Germany, for the purposes of exemption from income tax or super-tax on the interest payable by any industrial undertaking in India on moneys borrowed by it under a loan agreement entered into with the said foreign financial institution

**NOTIFICATION UNDER SEC 88(6) OF 1961 ACT***(Notification No S O 2573, dated the 6th August, 1962)*

In exercise of the powers conferred by sub-section (6) of section 88 of the Income tax Act, 1961 (XLIII of 1961), the Central Government hereby notifies that Sri Meenakshi Sundareswarar Temple, Madurai, to be of archaeological and artistic importance for the purposes of the said section

**4½ PER CENT NATIONAL DEFENCE BONDS, 1972***(Notification No F 13(34)-W & M/62, dated the 3rd November, 1962)*

\*

\*

\*

**5. Income tax**—The interest on the Bonds will be liable to tax under the Income-tax Act, 1961, but in the case of Bonds held by individuals, not being non-residents, no tax will be deducted at the time of payment of interest

\* Ss 4(3)(ii a) and 4(3)(xvii b)(i) of the 1922 Act correspond to ss 10(23) and 10(15)(iv)(b) respectively of the 1961 Act Under s 297(2)(i) of the 1961 Act, these Notifications are deemed to have been issued under ss 10(23) and 10(15)(i)(b) respectively of that Act and continue in force accordingly

## SUPPLEMENTARY PROVISIONS

**6 Place of payment of interest**—Interest on the Bonds will be paid at any Treasury or Sub treasury in India and at the Public Debt Offices at Bangalore, Bombay, Calcutta, Madras, Nagpur, New Delhi, Patna and Hyderabad

**7 Refunds of tax**, when deducted (at rates prescribed by the annual Finance Acts), at the time of payment of interest, will be obtainable by holders of the Bonds who are not liable to tax or who are liable at a rate lower than the rate at which tax was deducted

A holder, other than an individual holder, who is not liable to tax or who is liable to tax at a rate lower than the prescribed rate can obtain, on application, a certificate from the Income-tax Officer of the district, authorising payment of interest to him without deduction of tax or with deduction of tax at such lower rate as may be applicable to the holder

**6½ PER CENT GOLD BONDS, 1977**

(Notification No F 13(35)—W & M/62, dated the 5th November, 1962)

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\*

**5 Income-tax**—The interest on the Bonds will be liable to tax under the Income tax Act, 1961, but in the case of Bonds held by individuals, not being non-residents, no tax will be deducted at the time of payment of interest if the holder gives a declaration that the total nominal value of the Bonds held by him, or on his behalf, did not exceed Rs 10,000 during the period for which interest is paid

**6 Wealth-tax and capital gains tax**—The Bonds will be exempted from wealth-tax and any capital gains from their sale will not be subject to capital gains tax Capital loss, if any, will not be eligible for being set off

## SUPPLEMENTARY PROVISIONS

**7 Place of payment of interest**—Interest on the Bonds will be paid at any Treasury or Sub-treasury in India and at the Public Debt Offices at Bangalore, Bombay, Calcutta, Madras, Nagpur, New Delhi, Patna and Hyderabad

**8 Refunds of tax**, when deducted (at rates prescribed by the annual Finance Acts) at the time of payment of interest, will be obtainable by holders of the Bonds who are not liable to tax or who are liable at a rate lower than the rate at which tax was deducted

A holder who is not liable to tax or who is liable to tax at a rate lower than the prescribed rate can obtain, on application, a certificate from the Income tax Officer of the district, authorising payment of interest to him without deduction of tax or with deduction of tax at such lower rate as may be applicable to the holder

**PREMIUM PRIZE BONDS, 1963**

(Notification No F 25(41)—NS/62 dated the 1st November, 1962)

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\*

**4 Income-tax**—Prize-money and interest by way of premium paid on the Bonds will not be liable to tax under the Income tax Act, 1961

## GOVERNMENT OF INDIA DEFENCE CERTIFICATES

Div 4  
F*(Notification No F 13(41)—W & M/62, dated the 7th December, 1962)*

Government of India Defence Certificates will be issued from the 20th December, 1962, until further notice. Subscriptions for the issue of these certificates will be received by such offices and at such places as may be notified for this purpose from time to time.

2 Repayment—The Certificates will be repaid at the Reserve Bank of India, New Delhi, on the expiry of ten calendar years from the date of issue, with a premium of Rs 60 for every Rs 100 subscribed. Holders resident outside India will be permitted to repatriate the amounts received by them in repayment of the Certificates.

3 Income-tax—The interest payable in the form of premium on the Certificates will not be subject to Indian income tax.

## NOTIFICATIONS UNDER SEC 10(15)(ii) OF 1961 ACT

In pursuance of sub clause (ii) of clause (15) of section 10 of the Income-tax Act, 1961 (XLIII of 1961), the Central Government has specified the following certificates for the purposes of that sub-clause

- |                                                                                                            |                                                                 |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------|
| (i) 10 Year Defence Deposit Certificates                                                                   | } Notification No S O<br>3574, dated the 23rd<br>November, 1962 |
| (ii) 12 Year National Defence Certificates                                                                 |                                                                 |
| (iii) The Government of India Defence Certificates.—Notification No S O 588, dated the 27th February, 1963 |                                                                 |

## INSTITUTIONS APPROVED FOR SEC 10(2)(xi) OF 1922 ACT\*

*(Notification No 34, dated the 23rd November, 1946)*

A list of associations, universities, colleges and institutions approved by the prescribed authority for the purpose of clause (xi) of sub section (2) of section 10 of the Indian Income-tax Act, 1922 (XI of 1922), has been published for general information

## Agricultural research associations

- |                                                                                                           |                                                  |
|-----------------------------------------------------------------------------------------------------------|--------------------------------------------------|
| 1 All India Bee Keepers' Association, Ramgarh, District Nainital, U P                                     | 10 Indian Academy of Science, Bangalore          |
| 2 Botanical Survey of India, Calcutta                                                                     | 11 <i>Deleted (Notif 56 I T, 4 6 1949)</i>       |
| 3 Bombay Natural History Society, Bombay                                                                  | 12 Indian Central Cotton Committee, Bombay       |
| 4 Central Board of Irrigation, Simla                                                                      | 13 Indian Central Coconut Committee, Ernakulam   |
| 5 Current Science Association, Bangalore                                                                  | 14 Indian Central Jute Committee, Calcutta       |
| 6 Entomological Society of India, Cawnpore                                                                | 15 Indian Central Oilseeds Committee             |
| 7 Geological Survey of India, Dehra Dun                                                                   | 16 Indian Central Sugarcane Committee, New Delhi |
| 8 Imperial Chemical Industries, Calcutta                                                                  | 17 Indian Central Tobacco Committee, Bombay      |
| 9 Indian Council of Agricultural Research, New Delhi ( <i>Substituted, Notif S R O 1791, 27 10 1952</i> ) | 18 Indian Coffee Board, Bangalore                |
|                                                                                                           | 19 Indian Chemical Society, Calcutta             |

\*S 10(2)(xi) of the 1922 Act corresponds to cls (ii) and (iii) of s 35(1) of the 1961 Act. Under s 297(2)(b) of the 1961 Act, these Notifications are deemed to have been issued under cls (ii) and (iii) of s 35(1) of that Act and continue in force accordingly.

## Agricultural research associations—Contd

- |                                                                                                    |                                                                                                |
|----------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------|
| 19A Indian Jute Mills Association, Research Institute, Calcutta ( <i>Notif 18 I T, 30 8 1947</i> ) | 28 National Academy of Science Allahabad                                                       |
| 20 Indian Lac Cess Committee, Ranchi                                                               | 29 Deleted ( <i>Notif 56 I T, 4 6 1949</i> )                                                   |
| 21 Indian Rubber Production Board, Kottayam, Travancore State                                      | 30 Royal Asiatic Society, Calcutta and Bombay                                                  |
| 22 Indian Science News Association, Calcutta                                                       | 31 United Planters' Association of South India, Coonoor                                        |
| 23 Indian Society of Genetics and Plant Breeding, New Delhi                                        | 32 Vivekanand Laboratories, Almora                                                             |
| 24 Indian Society of Soil Science, Calcutta                                                        | 33 Zoological Survey of India, Calcutta                                                        |
| 25 Indian Tea Association, Calcutta                                                                | 34 The International Society of Sugarcane Technologists ( <i>Notif S R O 3496, 7 11-1955</i> ) |
| 26 Indian Tea Market Expansion Board, Calcutta                                                     | 35 The Sugarcane Research Station Jullunder ( <i>Notif S R O 473, 11 2 1957</i> )              |
| 27 Meteorological Department, Poona                                                                |                                                                                                |

## Scientific and industrial research associations

- |                                                                                                                |                                                                                                                                    |
|----------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------|
| 1 Ahmedabad Textile Industry's Research Association, Ahmedabad ( <i>Substituted, Notif 21 I T, 10 4 1948</i> ) | 11 State Broadcasting Dept., Madras                                                                                                |
| 1A B B & C I Railway Workshop, Ajmer ( <i>Notif 21 I T, 10 4 1948</i> )                                        | 12 Royal Botanical Gardens, Calcutta                                                                                               |
| 2 Bengal Potteries Ltd., Calcutta                                                                              | 12A Silk and Art Silk Mills Research Association, Bombay ( <i>Notif 23, 18 2 1950</i> )                                            |
| 3 Bhowmik (Mr B B.), Radan House, 89, Kalghat Road, Calcutta                                                   | 12B South India Textile Research Association, Coimbatore ( <i>Notif S R O 1799, 9-11 1951</i> )                                    |
| 4 Biochemical Standardisation Laboratory, Calcutta                                                             | 12C Shri Ram Institute for Industrial Research, Delhi ( <i>Notif 79, 10 12 1953</i> )                                              |
| 5 Botanical Survey of India, Calcutta                                                                          | 12D Industrial Foundation, Bombay ( <i>Notif 14, 11 3-1954</i> )                                                                   |
| 6 Council of Scientific and Industrial Research New Delhi                                                      | 13 Tata Iron and Steel Industry, Jamshedpur                                                                                        |
| 6A Indian Association for the Cultivation of Science Calcutta ( <i>Notif 7 I T, 22 1 1949</i> )                | 14 Bombay Textile Research Association, Bombay ( <i>Notif S R O 3466, 17 11 1954</i> )                                             |
| 7 Indian Central Cotton Committee, Matunga, Bombay                                                             | 15 The Textile and Allied Industries Research Organisation, Baroda ( <i>Notif S R O 1026, 1 5 1956</i> )                           |
| 8 Indian Crucible Co., Ltd., 16 Sibogopal Banerjee Lane, Salikha, Howrah                                       | 16 National Council of Applied Economic Research ( <i>Notif S R O 1839, 17 8 1956, Substituted, Notif S R O 2742, 19 11 1956</i> ) |
| 9 Indian Meteorological Dept., Delhi                                                                           |                                                                                                                                    |
| 10 Mysore Iron and Steel Works, Bhadravati                                                                     |                                                                                                                                    |

## Associations connected with research work in medicine

- |                                                                                                                                           |                                                                                               |
|-------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------|
| 1 Enquiries conducted under the auspices of the I R F A, New Delhi                                                                        | 4 Nutrition Research Laboratories Coonoor                                                     |
| 1A Gujarat Research Society, Bombay ( <i>Notif 2 I T, 8 1 1949</i> )                                                                      | 5 Parlakimedi Trust Fund New Delhi                                                            |
| 2 Indian Council of Medical Research, New Delhi ( <i>Substituted, Notif 65, 3 6 1950</i> )                                                | 6 Tuberculosis Association of India, New Delhi                                                |
| 2A King Edward VII Memorial Hospital and Seth Gordhandas Sunderdas Medical College Research Society, Bombay ( <i>Notif 16, 3 3 1953</i> ) | 7 The Universal Health Institute Bombay ( <i>Notif S R O 2684, 13 8 1954</i> )                |
| 3 Medical Council of India, New Delhi                                                                                                     | 8 The All India Institute of Medical Sciences, New Delhi ( <i>Notif S R O 267 31 1 1961</i> ) |



## Universities

Div. 4  
F

- |    |                                                               |    |                                                                              |
|----|---------------------------------------------------------------|----|------------------------------------------------------------------------------|
| 1  | Agra University, Agra                                         | 11 | Madras University, Madras                                                    |
| 2  | Allahabad University, Allahabad                               | 12 | Muslim University, Aligarh                                                   |
| 3  | Andhra University, Guntur                                     | 13 | Mysore University, Bangalore                                                 |
| 4  | Annamalai University, Annamalai nagar                         | 14 | Nagpur University, Nagpur                                                    |
| 5  | Bombay University (Chemical Technological Department), Bombay | 15 | Patna University, Patna                                                      |
| 6  | Calcutta University (University College of Science), Calcutta | 16 | East Punjab University, Solon ( <i>Substituted, Notif 56 I T, 4 6 1949</i> ) |
| 7  | <i>Deleted (Notif 56 I T, 4 6 1949)</i>                       | 17 | Travancore University, Trivandrum                                            |
| 8  | Delhi University, Delhi                                       | 18 | Usmania University, Hyderabad (Deccan)                                       |
| 9  | Hindu University, Benares                                     | 19 | Utkal University, Cuttack                                                    |
| 10 | Lucknow University, Lucknow                                   | 20 | Women's University, Bombay                                                   |
|    |                                                               | 21 | University of Roorkee, Roorkee ( <i>Notif S O 266, 31 1 1961</i> )           |

## Colleges

- |    |                                                    |    |                                                                                                    |
|----|----------------------------------------------------|----|----------------------------------------------------------------------------------------------------|
| 1  | Agricultural College, Cawnpore                     | 17 | Presidency College, Madras                                                                         |
| 2  | <i>Deleted (Notif 56 I T, 4 6 1949)</i>            | 18 | Recognised Medical Colleges                                                                        |
| 3  | Agricultural College, Nagpur                       | 19 | Science College, Patna                                                                             |
| 4  | Agricultural College, Poona                        | 20 | School of Tropical Medicine, Calcutta ( <i>Corrected, Notif 81, 16 12 1953</i> )                   |
| 5  | Agricultural College, Sabour, Bihar                | 21 | Veterinary College, Bengal                                                                         |
| 6  | Agricultural College, Saidapet                     | 22 | <i>Deleted (Notif 56 I T, 4 6 1949)</i>                                                            |
| 7  | <i>Deleted (Notif 56 I T, 4 6 1949)</i>            | 23 | Veterinary College, Madras                                                                         |
| 8  | Amar Singh K E M U Jat College, Lakhaoti, U P      | 24 | Veterinary College, Patna                                                                          |
| 9  | Balwant Agricultural College, Agra                 | 25 | Veterinary College, Poona                                                                          |
| 10 | <i>Deleted</i>                                     | 26 | The Birla College of Engineering, Pilani ( <i>Notif S R O 1039, 30 3 1957</i> )                    |
| 11 | <i>Deleted</i> } ( <i>Notif 56 I T, 4 6 1949</i> ) | 27 | The Birla College of Science, Commerce and Pharmacy, Pilani ( <i>Notif S R O 1040, 30 3 1957</i> ) |
| 12 | Indian School of Mines, Dhanbad                    | 28 | Kasturba Medical College, Manipal ( <i>Notif S O 651, 18 3 1961</i> )                              |
| 13 | <i>Deleted (Notif 56 I T, 4 6 1949)</i>            |    |                                                                                                    |
| 14 | Khalsa College, Amritsar                           |    |                                                                                                    |
| 15 | King George's Medical College, Lucknow             |    |                                                                                                    |
| 16 | Presidency College, Calcutta                       |    |                                                                                                    |

## Institutions

- |    |                                                                                                            |    |                                                  |
|----|------------------------------------------------------------------------------------------------------------|----|--------------------------------------------------|
| 1  | Agricultural Research Institute and College, Coimbatore                                                    | 14 | <i>Deleted (Notif 56 I T, 4 6 1949)</i>          |
| 2  | Allahabad Agricultural Institute, Allahabad                                                                | 15 | Indian Institute of Science, Bangalore           |
| 3  | <i>Deleted (Notif 56 I T, 4 6 1949)</i>                                                                    | 16 | Indian Statistical Institute, Calcutta           |
| 4  | Bengal Tanning Institute, Calcutta                                                                         | 17 | Institute of Agriculture, Anand                  |
| 5  | Bose Research Institute, Calcutta                                                                          | 18 | Institute of Plant and Industry, Indore          |
| 6  | Central Irrigation Research Institute, Poona                                                               | 19 | <i>Deleted (Notif 56 I T, 4 6 1949)</i>          |
| 7  | Central Research Institute, Trivandrum                                                                     | 20 | Laxmi Narain Institute of Technology, Nagpur     |
| 8  | Forest Research Institute and College, Dehra Dun                                                           | 21 | National Institute of Science in India, Calcutta |
| 9  | Government Silk Institute, Nath nagar, Bhagalpore                                                          | 22 | Nutritional Research Institute, Coonoor          |
| 10 | Indian Agricultural Research Institute, New Delhi ( <i>Substituted, Notif 5 I T, 22 2 1947</i> )           | 23 | River Research Institute, Bengal, Calcutta       |
| 11 | Indian Dairy Research Institute, Bangalore ( <i>Substituted, ibid</i> )                                    | 24 | Royal Institute of Science, Bombay               |
| 12 | Indian Veterinary Research Institute, Izatnagar and Mukteswar (Uttar Pradesh) ( <i>Substituted, ibid</i> ) | 25 | Silk Research Institute, Berhampore              |
| 13 | Imperial Institute of Sugar Technology, Cawnpore                                                           | 26 | Tata Institute of Fundamental Research, Bombay   |
|    |                                                                                                            | 27 | Technological Institute, Baroda                  |
|    |                                                                                                            | 28 | Victoria Jubilee Technical Institute, Bombay     |
|    |                                                                                                            | 29 | Vishvabharati Institute, Calcutta                |

## Institutions—Contd

- |    |                                                                                                                                    |    |                                                                               |
|----|------------------------------------------------------------------------------------------------------------------------------------|----|-------------------------------------------------------------------------------|
| 30 | Inter-Departmental Committee for the collection of voluntary contributions for the plywood industry (Notif S R O 3550, 28 11 1955) | 34 | Indian Institute of Technology, Kharagpur (Notif S O 266, 31 1 1961)          |
| 31 | Indian Science Congress Association, Calcutta (Notif S R O 226, 24 1-1956)                                                         | 35 | Indian Institute of Technology, Madras ( <i>Ibid</i> )                        |
| 32 | Birla Institute of Technology, Mesra, Ranchi (Notif S O 148, 12 1 1961)                                                            | 36 | Indian Institute of Technology, Kanpur ( <i>Ibid</i> )                        |
| 33 | Indian Institute of Technology, Bombay ( <i>Ibid</i> )                                                                             | 37 | The Calcutta Medical Research Institute, Calcutta (Notif S O 1944, 11 8 1961) |

## INSTITUTIONS APPROVED FOR SEC 35(1)(ii) AND (iii) OF 1961 ACT

The following institutions have been approved by the prescribed authority for the purposes of the statutory provisions mentioned against them

| <i>Institutions</i>                                                    | <i>Section of 1961 Act</i> | <i>Notifications</i>          |
|------------------------------------------------------------------------|----------------------------|-------------------------------|
| 1 Indian Institute of Social Welfare and Business Management, Calcutta | 35(1) (iii)                | No S O 3091, dated 29 9 1962  |
| 2 Haffkine Institute, Bombay                                           | 35(1) (ii)                 | No S O 3092, dated 29 9 1962  |
| 3 National Institute for Industrial Design, Ahmedabad                  | 35(1) (ii)                 | No S O 3209, dated 20 10 1962 |
| 4 Indian Drugs Research Association Poona                              | 35(1) (ii)                 | No S O 3210, dated 20 10 1962 |
| 5 The Economic and Scientific Research Foundation, New Delhi           | 35(1) (ii)                 | No S O 3505, dated 15 11-1962 |
| 6 Indian Institute of Management, Ahmedabad                            | 35(1) (iii)                | No S O 3573, dated 22-11 1962 |
| 7 Cement Research Institute of India, Bombay                           | 35(1) (ii)                 | No S O 890, dated 21 3 1963   |
| 8 Indian Rubber Manufacturers Research Association, Bombay             | 35(1) (ii)                 | No S O 1838, dated 18 6 1963  |

## INTEREST ON PROVIDENT FUND\*

(Notification No 10, dated the 15th March, 1930)

In pursuance of sub section (2) of section 58F of the Indian Income tax Act, 1922 (XI of 1922), the Governor General in Council is pleased to fix six per cent as the rate referred to in the said sub section

This notification shall apply to the whole of British India, including Berar

## NOTIFICATION UNDER ART 299 OF THE CONSTITUTION

(Notification No G S R 1161, dated the 1st December, 1958)

In exercise of the powers conferred by clause (1) of article 299 of the Constitution, and in supersession of the notification of the Government

\* The provision regarding the rate of interest, originally in s 58F(2) of the 1922 Act, was deleted therefrom and incorporated in s 58E by the Finance (No 2) Act, 1957. The the 1961 Act Under s 297(2)(f) of the 1961 Act, this Notification is deemed to have been issued under the said r 6 and continues in force accordingly

of India in the Ministry of Law No S R O 3442, dated the 2nd November, 1955, the President hereby directs that the undermentioned contracts and assurances of property made in the exercise of the executive power of the Union may be executed on his behalf as follows

Div. 4  
F

VI —In the case of the Ministry of Finance—

D In the case of the Department of Revenue

1 In the case of the Income-tax Department —

- (i) Contracts and instruments relating to the Income-tax Department *by Commissioners of Income tax*
- (ii) All contracts, deeds and instruments relating to business of the Statistical Branch (Income tax) *by the Statistician (Income-tax)*

5 In the case of the Directorates of Inspection (Income tax) and (Investigation) —

Security bonds in connection with the employment of office cashiers and other subordinate staff who are required to handle Government money in the course of their official work *by the Director of Inspection (Income tax) and Director of Inspection (Investigation) as the case may be*

7 All contracts and instruments relating to Estate Duty *by the Controllers of Estate Duty*

XIII —In the case of the Ministry of Law—

Contracts and other instruments relating to the Income-tax Appellate Tribunal *by the President, Income tax Appellate Tribunal*

## STAMP DUTY AND COURT-FEES

### STAMP DUTY AND COURT-FEES ON INSTRUMENTS PRESENTED TO OR ISSUED BY INCOME-TAX AUTHORITIES\*

*Affidavits* —Exemption (b) to article 4, Schedule I, Indian Stamp Act, 1899, does not apply to an affidavit required for the immediate purpose of being filed or used in any income-tax proceedings or before the Income tax Officer or the Assistant Commissioner or the Commissioner, because none of these officers is a "Court "

*Certified copies or extracts* —All copies or extracts certified to be true copies or extracts by officers in the Income-tax Department are, under article 24, Schedule I, of the Indian Stamp Act, 1899, liable to stamp duty if under the law they are not chargeable with Court-fee (see exception below in the case of copies of appellate orders under section 31)

*Powers of attorney (Authorisation letters)* —The authorisation envisaged in section 61 is a "power of attorney " If it is in favour of a legal practitioner it is "*Wakalatnama*" or "*Mulhltarnama*" chargeable with Court-fee under article 10 of Schedule II of the Court-Fees Act, 1870 If it is in favour of any other person, it would be a "power of attorney" chargeable to stamp duty under article 48(c) of Schedule I of the Indian Stamp Act, 1899 The use of adhesive stamps is not permissible and the proper course is to use the stamp paper embossed with proper stamp

The statements and explanation given by the person so authorised on behalf of the assessee are binding on the latter There is, however, nothing to prevent the Income tax Officer from allowing a representative to appear without acting for the assessee, e g, to produce documents or to explain accounts In such cases the person producing accounts or evidence will be treated merely as a custodian of these accounts or evidence and no reliance can be placed upon any statement or explanation which he gives

*Orders—Copies of* —Under Schedule I, article 6, of the Court-Fees Act, 1870, every copy of an order passed by an officer in the Income-tax Department in respect of any proceedings under the Act is chargeable with Court fees except where the copy is meant for the applicant's private use or is presented to the Appellate Tribunal in connection with any appeal under the Act

Under article 9 of the same Schedule, every copy of an income tax proceeding or order (not otherwise provided for by the Court-Fees Act) or copy of any account, statement, report or the like taken out of an office in the Income-tax Department is liable to Court-fees

Article 6 of Schedule I of the Court-Fees Act applies to quasi judicial orders, e g, assessment orders including orders enhancing assessments, orders under section 27, orders imposing penalties under section 25(2) and section 28(1) and all appellate and revisional orders generally, and article 9 to other orders

\* References to the provisions of the 1922 Act should be read as references to the corresponding provisions of the 1961 Act

A copy of the assessment order passed under section 23 is supplied free of copying charges by the Income-tax Officer on an application by an assessee subject to certain conditions. Such a copy is also free of Court-fee under item (9) of Government of India Notification No 4650, dated the 10th September, 1889, if for the assessee's private use. But if a copy of the assessment order is filed as an exhibit in appeal, *etc*, it must be stamped with the proper Court-fee stamp. A copy of the appellate order passed by the Appellate Assistant Commissioner is supplied to the appellant free of cost as soon as the order has been passed. If such a copy is presented to the Appellate Assistant Commissioner for certification as a true copy, no copying or searching fee will be demanded.

Div 4  
G

The copy of the appellate order, being for the appellant's private use, is exempt from Court-fee under item (9) of the Government of India Notification No 4650, dated the 10th September, 1889, provided the exemption has been continued in the Notification issued by the State Governments concerned under section 35 of the Court-Fees Act. The certification of such copy would not of itself render it liable to stamp duty under article 24 of Schedule I to the Indian Stamp Act. No Court fee or other stamp will, therefore, be demanded for affixation to the certified copy.

*Petitions—Applications*—Under article 1 of Schedule II of the Court-Fees Act, 1870, every application or petition presented to "any executive officer" (which includes any officer in the Income-tax Department) for the purpose of obtaining a copy or translation of any order passed by such officer or any other document on record in such office is chargeable with Court-fees. Application to the Appellate Assistant Commissioner for authentication of the copy of the appellate order supplied free to the appellant is also chargeable with Court fee under this article.

Under article 1(c) of the same Schedule an application or petition presented to the Central Board of Revenue is chargeable with Court-fee.

*Wakalatnama*—Under article 10(a) and (c) of the same Schedule, a *Mukhtarnama* or *Wakalatnama* presented for the conduct of any one case to an officer in the Income-tax Department or the Central Board of Revenue is chargeable with Court-fee.

*Appeal—Memorandum of*—An appeal preferred under section 30 of the Indian Income-tax Act, 1922, is liable to Court fee under article 11(a) of Schedule II of the Court-Fees Act.

(N B —No Court fee is chargeable on petitions presented under section 33A.)

*Refunds*—Applications for refunds under sections 48, 48A and 49A of the Indian Income-tax Act are exempt from payment of Court-fees under clause (ax) of section 19 of the Court-Fees Act.

*Court fees—Computation of*—In all those cases where the Court fee is *ad valorem* the monetary value for the purpose of determining the Court-fee is the amount of tax or penalty levied by the Income tax Officer.

*Rates of duties*—Stamp duties and Court fees vary from State to State. As regards the details of the rates, reference should be made to the various Stamp and Court-Fees Amendment Acts in the different States which have been passed in recent years.

Div 4  
G

# STAMP DUTY ON DOCUMENTS AUTHORISING APPEARANCE ON BEHALF OF ASSESSEES

(C B R Circular No 9 (XL—48) of 1958, dated the 13th May, 1958)

After the issue of Board's Circular No 50(XL—43) D of 1956, dated the 28th December, 1956, the question has been raised whether accountants and income-tax practitioners should file vakalatnamas or powers of attorney and, if the latter, what the scales of Court-fees or stamp duties leviable thereon were

The Board have been advised that a document purporting to authorise a person who is not a pleader or mukhtar duly appointed under section 7 of the Legal Practitioners Act, 1879, is not a vakalatnama or a mukhtarnama and requires to be stamped as a power of attorney under the Stamp Act. Therefore, the power of attorney in favour of a registered accountant or an income-tax practitioner or any other person who is not a duly appointed mukhtar under section 7 of the Legal Practitioners Act is a power of attorney (and not a vakalatnama or mukhtarnama) and requires to be stamped not under the Court-Fees Act, but under the provisions of the Stamp Act as in force in the particular area, i e , subject to the local amendments

## STAMP DUTY AND COURT-FEES ON INSTRUMENTS PRESENTED TO APPELLATE TRIBUNAL

"*Vakalatnama*" or "*Mukhtarnama*" is chargeable with Court fee under article 10(a) of Schedule II to the Court-Fees Act

"*Power of attorney*" has to be stamped in accordance with article 48(c), Schedule I to the Indian Stamp Act

"*Memoirandum of appeal*" presented to the Appellate Tribunal and copies of orders passed by any income tax authority when such copies are presented to the Appellate Tribunal have been exempted from Court-fee by Notification of the Government of India in the Home Department No 123 41 Public (J), dated the 29th January, 1942

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*The Registrar, Income tax Appellate Tribunal, Bombay, has issued the following memorandum dated the 24th June, 1954, in respect of Court fees to be charged on documents filed before the Tribunal —*

The question whether Court-fees should be charged on documents filed before the Tribunal in accordance with the provisions of the Central (Government of India) Court-Fees Act without taking into consideration the amendments made by the different States, has been reviewed. It has been decided that Court-fees should be charged on documents filed before the Tribunal according to the scales laid down in the Central (Government of India) Court-Fees Act and amendments in the scales made in different States should not be taken into consideration for this purpose. The amount of Court fees

payable at present on various documents filed before the Tribunal and on certified copies supplied by the Tribunal will, therefore, be as shown below — **Div 4 G**

| Serial No | Nature of document                                                                                                 | Provision of the C F Act                                                            | Amount of Court fees payable                                                                     |
|-----------|--------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------|
| 1         | Vakalatnama                                                                                                        | Article 10(a), Schedule II                                                          | Eight annas                                                                                      |
| 2         | Application for obtaining copy of any order of the Tribunal or of any other document on the record of the Tribunal | Last clause of article 1(a), Schedule II                                            | One anna                                                                                         |
| 3         | Certified copy of any order of the Tribunal (which is not for private use)                                         | Article 6, Schedule I (The value of the subject matter always exceeds fifty rupees) | Eight annas                                                                                      |
| 4         | Certified copy of any other document on the record of the Tribunal (which is not for private use)                  | Article 9, Schedule I                                                               | Eight annas for every three hundred and sixty words or fraction of three hundred and sixty words |

The scales of Court-fees mentioned above will be enforced with immediate effect

REGISTRAR

## DOUBLE TAXATION RELIEF AND TAX TREATIES

### THE INCOME-TAX (DOUBLE TAXATION RELIEF) (ADEN) RULES, 1953\*

(Notification No S R O 595, dated the 24th March, 1953)

In exercise of the powers conferred by section 49A of the Indian Income tax Act, 1922 (XI of 1922), and in supersession of the Notification of the Government of India in the late Finance Department (Central Revenues), No 18-I T, dated the 21st February, 1942, the Central Government hereby makes the following rules for the grant of relief in respect of income on which tax has been paid both in the taxable territories and in Aden, namely —

1 These rules may be cited as the Income tax (Double Taxation Relief) (Aden) Rules, 1953

2 In these rules,—

- (a) the expression “Aden income-tax” means income tax and super tax charged for any year in accordance with the provisions of the Aden Income tax Ordinance, 1951,
- (b) the expression “Aden rate of tax” means the amount of Aden income-tax divided by the amount of the income on which it was charged,
- (c) the expression “Indian income-tax” means income tax and super-tax chargeable in accordance with the provisions of any law in force in the taxable territories,
- (d) the expression “Indian rate of tax” means the rate determined by dividing the amount of income tax paid in the taxable territories for the year in question by the amount of income on which tax was charged,
- (e) the reference to the lower of the two rates shall, where the rates are equal, be construed as a reference to either of those two rates

3 If any person who has paid by deduction under section 18 of the Indian Income tax Act, 1922, or otherwise, Indian income-tax for any year on any part of his income proves to the satisfaction of the Income tax Officer that he has paid by deduction or otherwise Aden income-tax for that year in respect of the same part of his income, he shall be entitled to a refund calculated on that part of his income at a rate to be determined as follows

- (i) if he is resident in the taxable territories the rate at which refund is to be given shall be —
  - (a) the Aden rate of tax, when that rate does not exceed half of the Indian rate of tax, and
  - (b) half the Indian rate of tax, in any other case,
- (ii) if he is not resident in the taxable territories the rate at which refund is to be given shall be —

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\* The original s 49A of the 1922 Act was substituted by the Finance Act, 1953, with effect from the 1st April, 1953. The amended s 49A of the 1922 Act corresponds to s 90 of the 1961 Act. Under s 297(2)(A) of the 1961 Act, this Notification is deemed to have been issued under s 90 of that Act and continues in force accordingly.



- (a) half of the Aden rate of tax when that rate does not exceed the Indian rate of tax, and Div 4  
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- (b) in any other case, the amount by which the Indian rate of tax exceeds half of the Aden rate of tax

4 (1) The application for refund of income-tax under these rules shall be made as follows —

- (i) if the applicant is resident in the taxable territories, to the Income-tax Officer of the District in which the applicant is chargeable directly, to the Income-tax Officer of the District in which he ordinarily resides,
- (ii) if the applicant is resident outside the taxable territories, to the Income-tax Officer appointed by the Central Board of Revenue

(2) Such application may be presented by the applicant in person or by a duly authorised agent or may be sent by post, and shall be in Form I appended to these rules

5 No claim to any refund of Indian income-tax or super-tax under these rules shall be allowed unless it is made within four years from the last day of the financial year commencing next after the expiry of the previous year in which the income arose, accrued or was received or was deemed to have arisen, accrued or been received or was brought into the taxable territories

6 An applicant for refund under these rules may appeal to the Appellate Assistant Commissioner of Income tax from any order of the Income-tax Officer disallowing the claim for refund either wholly or in part

7 The appeal shall be presented within thirty days of the date on which the order of the Income-tax Officer was communicated to the applicant, and shall be in Form II appended to these rules

### FORM I

[See rule 4]

*Application\* for relief from double income-tax under the Income tax (Double Taxation Relief) (Aden) Rules, 1953*

I, \_\_\_\_\_, of \_\_\_\_\_, do hereby state that I have paid [or under the provisions of section 49B of the Indian Income-tax Act, 1922 (XI of 1922), must be deemed to have paid] Aden income tax/income tax and super-tax amounting to Rs \_\_\_\_\_ for the year ending 19 \_\_\_\_\_ on an income† of Rs \_\_\_\_\_ and that Indian income-tax/income-tax and super-tax of Rs \_\_\_\_\_ has also been paid [or under the provisions of section 49B of the Indian Income-tax Act, 1922 (XI of 1922), must be deemed to have been paid] on the same income† /part of the same income amounting to Rs \_\_\_\_\_. I now pray for relief at the rate of \_\_\_\_\_ amounting to Rs \_\_\_\_\_ to which I am entitled under the Income-tax (Double Taxation Relief) (Aden) Rules, 1953 My income from all sources during the "previous year" ending on the 19 \_\_\_\_\_, amounted to Rs \_\_\_\_\_ only —see Return of income attached/ already submitted

*Signature*

\* In the case of the persons specified in the second column of the following statement, the application for relief shall be made to the Income tax Officer specified in the corresponding entry in the third column thereof

† Where the income on which income tax has been charged differs from that on which super tax has been charged, both amounts must be specified

I hereby declare that what is stated herein is correct

*Signature*

*Dated*

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| Serial No | Persons                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Income tax Officer appointed by the Central Board of Revenue to whom application for relief should be made                                                                                                                                                                                                                                                                   |
|-----------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1         | 2                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | 3                                                                                                                                                                                                                                                                                                                                                                            |
| 1         | Persons (excluding those who fall under Serial No 5) not resident in the taxable territories whose total income is made up of income wholly taxed at source or dividends or both                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Income tax Officer, Non Residents Refund Circle, Bombay                                                                                                                                                                                                                                                                                                                      |
| 2         | Persons (excluding those who fall under Serial No 5) not resident in the taxable territories and not assessed through statutory agents under section 43, any part of whose income is derived from horse racing                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Income tax Officer, A Ward, Poona                                                                                                                                                                                                                                                                                                                                            |
| 3         | Persons not resident in the taxable territories assessed through statutory agents under section 43 of the Indian Income tax Act, 1922, whether their income arises in a single Province or in more than one Province                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Income tax Officer of the District in which the statutory agent carries on the business by reason of which income tax is chargeable in his name under section 42, or where he resides, as the case may be                                                                                                                                                                    |
| 4         | Persons (excluding those who fall under Serial No 5) not resident in the taxable territories who do not fall under Serial Nos 1 and 2 and not assessed through statutory agents under section 43, with any income for direct assessment (e.g., house property, interest, etc.)                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Income tax Officer of the circle in which arose the greater part of the income for assessment in 1953-54, or in the first year of assessment, whichever year is later provided that the same officer shall have jurisdiction for subsequent years so long as some income for direct assessment (not necessarily the greater part) continues to arise within his jurisdiction |
| 5         | (1) Defence Services Employees under the audit control of the Field Controller of Military Accounts, Officers and Clearing House, Poona, and/or the Field Controller of Military Accounts, other Ranks Ambala, excluding (a) Employees, whether civil or military, who are members of or are attached to the Military Accounts Department, and (b) Employees who are partners in a firm in the taxable territories or who have income from business carried on in the taxable territories<br><br>(2) Persons resident outside India who at the time of departure from India were Defence Services Employees under the audit control of the Field Controller of Military Accounts, Officers and Clearing House, Poona, or previously Field Controller of | Income tax Officer attached to the Adjutant General's Branch, General Headquarters (India) and stationed at Poona                                                                                                                                                                                                                                                            |

| Serial No | Persons                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Income tax Officer appointed by the Central Board of Revenue to whom application for relief should be made | Div 4<br>H |
|-----------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------|------------|
| 1         | 2                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | 3                                                                                                          |            |
|           | <p>Military Accounts, Poona, or the Field Controller of Military Accounts, other Ranks, Ambala, and who are not under the audit control of any other audit officer in India in respect of accounting periods during which they were Defence Services Employees in Indian payment</p> <p>(iii) Persons being widows or dependents of Defence Services Employees in the payment of the Field Controller of Military Accounts, Officers and Clearing House, Poona (or previously Field Controller of Military Accounts, Poona) or the Field Controller of Military Accounts, other Ranks, Ambala</p> |                                                                                                            |            |

## FORM II

[See rule 7]

*Appeal from an order of the Income-tax Officer disallowing a claim for refund under the Income tax (Double Taxation Relief) (Aden) Rules, 1953*

To

The Appellate Assistant Commissioner of Income-tax

The                      day of                      19

The petition of                      of                      post office,

District, sheweth as follows —

Your petitioner applied to the Income-tax Officer for refund under the Income-tax (Double Taxation Relief) (Aden) Rules, 1953, of Rs                      The Income tax Officer has by his order, dated the                      of which a copy is attached, rejected the application/granted-a refund of only Rs                      Intimation of this order was received by your petitioner on                     

Your petitioner therefore requests that the order of the Income tax Officer may be set aside and the refund asked for may be granted

\* Signed

## GROUNDS OF APPEAL

*Form of verification*

I,                      , the petitioner named in the above petition, do declare that what is stated therein is true to the best of my information and belief

\* Signed

\* The form of appeal and the form of verification appended thereto shall be signed—

- (a) in the case of an individual, by the individual himself,
- (b) in the case of Hindu undivided family, by the Manager or *Karta*,
- (c) in the case of a company or local authority, by the principal officer,
- (d) in the case of a firm, by a partner, and
- (e) in the case of any other association, by a member of the association

**THE INCOME TAX (DOUBLE TAXATION RELIEF) (DOMINIONS)  
RULES, 1956\***

*(Notification No S R O 1534, dated the 23rd June, 1956)*

In exercise of the powers conferred by section 49A of the Indian Income tax Act, 1922 (XI of 1922), and in supersession of the notification of the Government of India in the late Finance Department (Central Revenues), No 1, dated the 4th January, 1941, the Central Government makes the following rules for the granting of relief in respect of income on which tax has been paid both in the taxable territories and in certain of Her Majesty's Dominions, namely —

- 1 (1) These rules may be called the Income-tax (Double Taxation Relief) (Dominions) Rules, 1956
- (2) They extend to the taxable territories as defined in section 2 (14A) of the Indian Income-tax Act, 1922 (XI of 1922)
- 2 In these rules unless the context otherwise requires—
  - (a) "Dominion" means any of the territories specified in the first column of the Schedule annexed to these rules,
  - (b) "Dominion income-tax" means tax charged for any year in accordance with the provisions of the Dominion enactment specified in the second column of the said Schedule,
  - (c) "Dominion rate of tax" has the meaning assigned to it in the section of the respective Dominion enactment specified in the third column of the said Schedule,
  - (d) the expression "Indian income tax" means income tax and super-tax charged in accordance with the provisions of the Indian Income-tax Act, 1922 (XI of 1922),
  - (e) the expression "Indian rate of tax" means the amount of Indian income-tax exclusive of super tax after deduction of any relief due to a claimant under the other provisions of the Indian Income-tax Act, 1922 (XI of 1922), but before deduction of any relief due to him under these rules, divided by his total income after deducting therefrom any income (including income from a share in an unregistered firm) exempted from tax by or under the provisions of the said Act, added to the amount of Indian super tax before deduction of any relief due to the claimant under these rules divided by his total income
- 3 If any person who has paid by deduction under section 18 of the Indian Income-tax Act, 1922 (XI of 1922), or otherwise Indian income tax for any year on any part of his income proves to the satisfaction of the Income tax Officer that he has paid by deduction or otherwise Dominion income tax for that year in respect of the same part of his income, he shall be entitled to a refund of a sum calculated on that part of his income at a rate to be determined as follows
  - (i) if he is resident in the taxable territories the rate at which refund is to be given shall be—

\* S 49A of the 1922 Act corresponds to s 90 of the 1961 Act Under s 297(2)(L) of the 1961 Act, this Notification is deemed to have been issued under s 90 of that Act and continues in force accordingly

- (a) the Dominion rate of tax, when that rate does not exceed half of the Indian rate of tax, and
- (b) half the Indian rate of tax, in any other case,
- (21) if he is not resident in the taxable territories the rate at which refund is to be given shall be—
- (a) half of the Dominion rate of tax when that rate does not exceed the Indian rate of tax, and
- (b) in any other case, the amount by which the Indian rate of tax exceeds half of the Dominion rate of tax

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Provided that in no case shall the rate at which such refund is calculated exceed half the Indian rate of tax appropriate to the income of the person entitled to relief or be greater than the excess of the lower of the Indian and the Dominion rate of tax over the rate at which relief is given in the Dominion

4. (1) The application for refund of income-tax under these rules shall be made as follows —

- (i) if the applicant is resident in the taxable territories, to the Income-tax Officer of the District in which the applicant is chargeable directly to income-tax, or if he is not chargeable directly, to the Income tax Officer of the District in which he ordinarily resides,
- (ii) if the applicant is resident outside the taxable territories, to the Income-tax Officer appointed by the Central Board of Revenue

(2) Such application may be presented by the applicant in person or by a duly authorised agent or may be sent by post, and shall as far as circumstances permit be in Form I appended to these rules

5 No claim to any refund of Indian income tax or super tax under these rules shall be allowed unless it is made within four years from the last day of the financial year commencing next after the expiry of the previous year in which the income arose, accrued or was received or was deemed to have arisen, accrued or been received or was brought into the taxable territories

6. An applicant for refund under these rules may appeal to the Appellate Assistant Commissioner of Income tax from any order of the Income-tax Officer disallowing the claim for refund either wholly or in part

7. The appeal shall be presented within thirty days of the date on which the order of the Income-tax Officer was communicated to the applicant, and shall, as far as circumstances permit, be in Form II appended to these rules

### FORM I

[See rule 4]

*Application\* for relief from double income-tax under the Income-tax (Double Taxation Relief) (Dominions) Rules, 1956*

I, \_\_\_\_\_, of \_\_\_\_\_, do hereby state that I have paid [or under the provisions of section 49B of the Indian Income-tax Act, 1922 (XI of 1922), must be deemed to have paid] (name of Dominion) income-tax amounting to £ \_\_\_\_\_ for the year ending 19 \_\_\_\_\_ on an income of £ \_\_\_\_\_ and that Indian income-tax/income-tax and super-tax of Rs \_\_\_\_\_ has also been paid [or under the provisions of section 49B of the Indian Income tax Act, 1922 (XI of 1922), must be deemed to

\* In the case of the persons specified in the second column of the following statement, the application for relief shall be made to the Income tax Officer specified in the corresponding entry in the third column thereof

4 have been paid] on the same income†/ part of the same income amounting to Rs I now pray for relief at the rate of amounting to Rs to which I am entitled under the Income tax (Double Taxation Relief (Dominions) Rules, 1956 My income from all sources during the previous year ending on the 19 , amounted to Rs only—see Return of income attached/already submitted

*Signature*

I hereby declare that what is stated herein is correct

*Signature*

*Dated*

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| Serial No | Persons                                                                                                                                                                                                                                                           | Income tax Officer appointed by the Central Board of Revenue to whom applications for relief should be made |
|-----------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------|
| 1         | 2                                                                                                                                                                                                                                                                 | 3                                                                                                           |
| 1         | Persons (excluding those who fall under Serial Nos 9, 10 and 12) not residing in the taxable territories and not assessed through statutory agents under section 43, any part of whose income is derived from horse racing                                        | Income tax Officer, A Ward, Poona                                                                           |
| 2         | Persons (excluding those who fall under Serial Nos 9, 10 and 12) not resident in the taxable territories whose total income is made up of income wholly taxed at source or dividends or both and which exceeds Rs 25,000                                          | First Income tax Officer, Non Residents Refund Circle, Bombay                                               |
| 3         | Persons (excluding those who fall under Serial Nos 9, 10 and 12) not resident in the taxable territories claiming double income tax relief whose total world income in the previous three years exceeded Rs 25,000                                                | First Income tax Officer, Non Residents Refund Circle, Bombay                                               |
| 4         | Persons (excluding those who fall under Serial Nos 9, 10 and 12) not resident in the taxable territories whose total world income is over Rs 10,000 but not exceeding Rs 25,000 and total income is made up of income wholly taxed at source or dividends or both | Second Income tax Officer, Non Residents Refund Circle, Bombay City                                         |
| 5         | Persons (excluding those who fall under Serial Nos 9, 10 and 12) not resident in the taxable territories claiming double income tax relief whose total world income in the previous three years exceeds Rs 10,000 but does not exceed Rs 25,000                   | Second Income tax Officer, Non Residents Refund Circle, Bombay City                                         |

† Where the income on which income tax has been charged differs from that on which super tax has been charged, both amounts must be specified

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| Serial No | Persons                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Income tax Officer appointed by the Central Board of Revenue to whom applications for relief should be made                                                                                              |
|-----------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1         | 2                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | 3                                                                                                                                                                                                        |
| 6         | Religious and charitable institutions outside the taxable territories not liable to income tax under section 4(3)(i) and (ii) of the Indian Income tax Act, 1922, applying for refund of tax deducted at source or for exemption certificates                                                                                                                                                                                                                                              | Third Income tax Officer, Non Residents Refund Circle, Bombay                                                                                                                                            |
| 7         | Persons (excluding those who fall under Serial Nos 9, 10 and 12) not resident in the taxable territories claiming double income tax relief whose total income in the previous three years did not exceed Rs 10,000                                                                                                                                                                                                                                                                         | Third Income tax Officer, Non Residents Refund Circle, Bombay                                                                                                                                            |
| 8         | Persons (excluding those who fall under Serial Nos 9, 10 and 12) not resident in the taxable territories whose income does not exceed Rs 10,000 and total income wholly taxed at source or dividends or both                                                                                                                                                                                                                                                                               | Third Income tax Officer, Non Residents Refund Circle, Bombay                                                                                                                                            |
| 9         | Persons not resident in the taxable territories assessed through statutory agents under section 43 of the Indian Income tax Act, 1922, whether their income arises in a single State or in more than one State                                                                                                                                                                                                                                                                             | Income tax Officer of the District in which the statutory agent carries on the business by reason of which income tax is chargeable in his name under section 42 or where he resides, as the case may be |
| 10        | Non resident pensioners not assessed through statutory agents under section 43 who draw their pension in the United Kingdom or in a Colony, from a company or any other private employer who is assessed in India                                                                                                                                                                                                                                                                          | Income tax Officer having jurisdiction over the employees of the employer paying pension                                                                                                                 |
| 11        | Foreign associations or companies which are declared by the Central Board of Revenue as a "company" under section 2(6)(ii) of the Indian Income tax Act, and whose total income is made up of income wholly taxed at source or dividends or both                                                                                                                                                                                                                                           | Income tax Officer assessing the respective Indian subsidiaries or Indian concerns through which such non residents are in receipt of income                                                             |
| 12        | (a) Defence Services Employees under the audit control of the Controller of Defence Accounts (Officers) Poona and/or the Controller of Defence Accounts (other Ranks), Secunderabad, and the D C M A, Jamnagar, excluding (a) Employees, whether civil or military, who are members of or are attached to the Military Accounts Department, and (b) Employees who are partners in a firm in the taxable territories or who have income from business carried on in the taxable territories | Income tax Officer, General Headquarters, stationed at Poona                                                                                                                                             |

| Serial No | Persons                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Income tax Officer appointed by the Central Board of Revenue to whom applications for relief should be made                                                                                                                                                                                                                                                                    |
|-----------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1         | 2                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | 3                                                                                                                                                                                                                                                                                                                                                                              |
|           | <p>(ii) Persons resident outside the taxable territories who at the time of departure from the taxable territories were Defence Services Employees under the audit control of the Controller of Defence Accounts (Officers), Poona (or previously Field Controller of Military Accounts, Poona) or the Controller of Defence Accounts (other Ranks), Secunderabad, and who are not under the audit control of any other audit officer in the taxable territories in respect of accounting periods during which they were Defence Services Employees in Indian pay ment</p> <p>(iii) Persons being widows or dependents of Defence Service Employees, in the payment of the Controller of Defence Accounts (Officers), Poona (or previously Field Controller of Military Accounts, Poona) or the Controller of Defence Accounts (other Ranks), Secunderabad</p> |                                                                                                                                                                                                                                                                                                                                                                                |
| 13        | Persons (excluding those who fall under Serial No 12) not resident in the taxable territories who do not fall under Serial Nos 1 and 2 and not assessed through statutory agents under section 43 with any income for direct assessment (e g , house property, interest, etc )                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | The Income tax Officer of the circle in which arose the greater part of the income for assessment in 1939-40 or in the first year of assessment whichever year is later Provided that the same Officer shall have jurisdiction for subsequent years so long as some income for direct assessment (not necessarily the greater part) continues to arise within his jurisdiction |

## FORM II

[See rule 7]

*Appeal from an order of the Income tax Officer disallowing a claim for refund under the Income tax (Double Taxation Relief) (Dominions) Rules, 1956*

To  
 The Appellate Assistant Commissioner of Income-tax  
 The day of 19  
 The petition of of post office,  
 District, sheweth as follows —

Your petitioner applied to the Income tax Officer for a refund under the Income-tax (Double Taxation Relief) (Dominions) Rules, 1956, of Rs , of  
 The Income-tax Officer has by his order, dated the , of  
 which a copy is attached, rejected the application/granted a refund of only  
 Rs  
 Intimation of this order was received by your  
 petitioner on



Your petitioner therefore requests that the order of the Income tax Officer may be set aside and the refund asked for may be granted

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*\*Signed*

### GROUND OF APPEAL

#### *Form of verification*

I, \_\_\_\_\_, the petitioner named in the above petition, do declare that what is stated therein is true to the best of my information and belief

*\*Signed*

\* The form of appeal and the form of verification appended thereto shall be signed—

- (a) in the case of an individual, by the individual himself,
- (b) in the case of Hindu undivided family, by the Manager or *Karta*,
- (c) in the case of a company or local authority, by the principal officer,
- (d) in the case of a firm, by a partner, and
- (e) in the case of any other association, by a member of the association

### SCHEDULE

| 1            | 2                                                 | 3                                     |
|--------------|---------------------------------------------------|---------------------------------------|
| Kenya        | East African Income tax (Management) Act, 1952    | Section 46(4) read with section 45(3) |
| Tanganyika   | East African Income tax (Management) Act, 1952    | Section 46(4) read with section 45(3) |
| Uganda       | East African Income tax (Management) Act, 1952    | Section 46(4) read with section 45(3) |
| Zanzibar     | The Zanzibar Income tax (Management) Decree, 1952 | Section 46(4) read with section 45(3) |
| Gold Coast   | Income tax Ordinance, 1943, of Gold Coast         | Section 31(4)                         |
| Nigeria      | Income tax Ordinance, 1943, of Nigeria            | Section 32(3)                         |
| Sierra Leone | Income tax Ordinance, 1943, of Sierra Leone       | Section 32(4)                         |
| Gambia       | Gambia Income tax Ordinance, 1948, of Gambia      | Section 29, sub section (1)(3)        |
| Mauritius    | Income tax Ordinance, 1950, of Mauritius          | Section 86(3)                         |

4 AGREEMENT FOR AVOIDANCE OF DOUBLE TAXATION BETWEEN  
INDIA AND PAKISTAN\*

(Notification No 28, dated the 10th December, 1947)

In exercise of the powers conferred by section 19AA of the Indian Income tax Act, 1922 (XI of 1922), section 11A of the Excess Profits Tax Act, 1940 (XV of 1940), and section 18A of the Business Profits Tax Act, 1947 (XXI of 1947), as adapted by the India (Adaptation of Income tax, Profits Tax and Revenue Recovery Acts) Order, 1947, the Central Government is pleased to direct that all provisions of the annexed Agreement for the avoidance of double taxation of income, profits and gains under the said Acts which has been concluded between India and Pakistan shall be given effect to in the Dominion of India

**Agreement for the avoidance of double taxation of income between  
the Government of the Dominion of India and the Government of  
the Dominion of Pakistan**

Whereas the Government of the Dominion of India and the Government of the Dominion of Pakistan desire to conclude an agreement for the avoidance of double taxation of income chargeable in the two Dominions in accordance with their respective laws,

Now, therefore, the said two Governments do hereby agree as follows

*Article I*—The taxes which are the subject of the present Agreement are the taxes imposed in the Dominions of India and Pakistan by the Indian Income tax Act, 1922 (XI of 1922), the Excess Profits Tax Act, 1940 (XV of 1940), and the Business Profits Tax Act, 1947 (XXI of 1947), as adapted in the respective Dominions

*Article II*—Subject to the provisions of Article IX, this Agreement shall continue in force so long as the basis of residence and the scope of the charging provisions in the aforesaid Acts as adapted remain unaltered in both the Dominions, and shall apply to the following assessments made under the said Acts in the two Dominions—

- (i) Assessments made on or after the 15th day of August, 1947, for the assessment year 1947-48 (or for the corresponding chargeable accounting period)
- (ii) All other assessments made on or after the 1st day of April, 1948, excepting excess profits tax assessments for chargeable accounting periods for which provisional assessments have been made before the 1st April, 1948

*Article III*—Save under the provisions of section 34 of the Income tax Act, 1922, and section 15 of the Excess Profits Tax Act, 1940, as adapted neither Dominion shall charge to tax any income of a person whose assessment (whether regular or provisional) including such income had been completed before the 15th day of August, 1947, or 1st day of April, 1948, as the case may be, by an Income-tax Officer or Excess Profits Tax Officer functioning

\* S 49A of the 1922 Act was substituted for the original ss 49A and 49AA by the Finance Act, 1953. The amended s 49A corresponds to s 90 of the 1961 Act. Under s 297(2)(k) of the 1961 Act, this Notification is deemed to have been issued under s 90 of that Act and continues in force accordingly.

## THE SCHEDULE

[See Article IV]

| Source of income or nature of transaction from which income is derived                                                               | Percentage of income which each Dominion is entitled to charge under the Agreement                  |                  | Remarks |
|--------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------|------------------|---------|
| 1                                                                                                                                    | 2                                                                                                   | 3                |         |
| 1 (a) Salaries paid by employers other than Government                                                                               | 100 per cent by the Dominion in which the salary is earned by service                               | Nil by the other |         |
| (b) Salaries paid by Government                                                                                                      | 100 per cent by the Dominion which pays the salary                                                  | Nil by the other |         |
| 2 (a) Interest on Government securities                                                                                              | 100 per cent by the Dominion where the securities are enfaced for payment of interest and principal | Nil by the other |         |
| (b) Interest on securities other than Government securities                                                                          | 100 per cent by the Dominion in which the investment is used                                        | Nil by the other |         |
| 3 Income from property                                                                                                               | 100 per cent by the Dominion in which the property is situated                                      | Nil by the other |         |
| 4 Income from profession or vocation                                                                                                 | 100 per cent by the Dominion in which professional service is rendered                              | Nil by the other |         |
| 5 Income from "business" or "other sources" —                                                                                        |                                                                                                     |                  |         |
| (a) Rent or royalty from lease, renting or hire of property                                                                          | 100 per cent by the Dominion in which the property is situated                                      | Nil by the other |         |
| (b) Rent or royalty or license fees or any like consideration from rights conceded in respect of property                            |                                                                                                     |                  |         |
| (c) Rent or royalty or any like consideration from any interest in property                                                          |                                                                                                     |                  |         |
| (d) Profits or gains from dealings in property growing out of the ownership or use of or interest in such property                   | 100 per cent by the Dominion in which the property is situated                                      | Nil by the other |         |
| (e) Rent or royalty for the use of or for the privilege of using patents, copy rights, goodwill, trade marks and other like property | 100 per cent by the Dominion in which the asset is used                                             | Nil by the other |         |

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| Source of income or nature of transaction from which income is derived                                                                                                                                                       | Percentage of income which each Dominion is entitled to charge under the Agreement                                                              |                                                     | Remarks                                                                                                                                 |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------|
| 1                                                                                                                                                                                                                            | 2                                                                                                                                               | 3                                                   | 4                                                                                                                                       |
| (f) Income derived from any money lent at interest and brought into a Dominion in cash or in kind                                                                                                                            | 100 per cent by the Dominion into which the money is brought                                                                                    | Nil by the other                                    |                                                                                                                                         |
| (g) Transport—Ships, Air, Road                                                                                                                                                                                               | 100 per cent by the Dominion in which the traffic originates                                                                                    | Nil by the other                                    |                                                                                                                                         |
| 6 Capital gains —                                                                                                                                                                                                            |                                                                                                                                                 |                                                     |                                                                                                                                         |
| (a) From sale, exchange or transfer of an immovable capital asset and any rights pertaining thereto                                                                                                                          | 100 per cent by the Dominion in which the capital asset is situated                                                                             | Nil by the other                                    |                                                                                                                                         |
| (b) From the sale, exchange or transfer of other assets                                                                                                                                                                      | 100 per cent by the Dominion in which the sale, exchange or transfer takes place                                                                | Nil by the other                                    |                                                                                                                                         |
| 7 (a) Goods purchased in one Dominion and sold in the other in the same condition without any manufacturing process so as to change the identity of the goods                                                                | 10 per cent of the profits by the Dominion in which goods are purchased provided there is a branch or regular purchasing agency in the Dominion | 90 per cent by the other                            | If there is no regular purchasing agency, 100 per cent shall be chargeable by the Dominion in which goods are sold and nil by the other |
| (b) Goods, merchandise or commodities manufactured in one Dominion and delivered by the manufacturer to a buyer in the same Dominion                                                                                         | 100 per cent by the Dominion in which the goods are manufactured                                                                                | Nil by the other                                    |                                                                                                                                         |
| (c) Goods, merchandise or commodities manufactured in one Dominion and sold by the manufacturer in the other without any further process and without having a selling establishment or regular agency in the latter Dominion | 75 per cent by the Dominion in which goods are manufactured                                                                                     | 25 per cent by the Dominion in which goods are sold |                                                                                                                                         |
| (d) Goods, merchandise or commodities manufactured in one Dominion and sold by the manufacturer in the other through a selling establishment or a regular agency                                                             | 50 per cent by the Dominion in which goods are manufactured                                                                                     | 50 per cent by the Dominion in which goods are sold |                                                                                                                                         |
| (e) Goods, merchandise or commodities manufactured by the assessee partly in one Dominion and partly in the other                                                                                                            | 50 per cent of the profits by each Dominion                                                                                                     | 50 per cent of the profits by each Dominion         |                                                                                                                                         |

| Source of income or nature of transaction from which income is derived                                                                                                                                  | Percentage of income which each Dominion is entitled to charge under the Agreement                            |                                                                    | Remarks                                                                                                                                                                                               |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                                                                                                                                         | 2                                                                                                             | 3                                                                  |                                                                                                                                                                                                       |
| (f) Metal ores minerals mineral oils and forest produce extracted in one Dominion and delivered by the extractor to a buyer in the same Dominion                                                        | 100 per cent by the Dominion in which the minerals are extracted                                              | Nil by the other                                                   |                                                                                                                                                                                                       |
| (g) Metal ores minerals mineral oils and forest produce extracted in one Dominion and sold in the other without any further manufacturing process and without selling establishment or a regular agency | 75 per cent of the profits by the Dominion in which minerals are extracted                                    | 25 per cent by the Dominion in which goods are sold                |                                                                                                                                                                                                       |
| (h) As above but sold in the other Dominion through a branch or selling establishment or regular agency                                                                                                 | 50 per cent of the profits by the Dominion in which minerals are extracted                                    | 50 per cent of the profits by the Dominion in which goods are sold |                                                                                                                                                                                                       |
| 8 Dividends                                                                                                                                                                                             | By each Dominion in proportion to the profits of the company chargeable by each Dominion under this Agreement | (As in preceding column)                                           | Relief in respect of any excess income tax deemed to be paid by the shareholder shall be allowed by each Dominion in proportion to the profits of the company chargeable by each under this Agreement |
| 9 Any income derived from a source or category of transactions not mentioned in any of the foregoing items of this Schedule                                                                             | 100 per cent by the Dominion in which the income actually accrues or arises                                   | Nil by the other                                                   |                                                                                                                                                                                                       |

**AGREEMENT FOR RELIEF FROM OR AVOIDANCE OF DOUBLE  
TAXATION BETWEEN INDIA AND CEYLON\***

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*(Notification No S R O 456, dated the 6th February, 1957)*

In exercise of the powers conferred by section 49A of the Indian Income-tax Act, 1922 (XI of 1922), the Central Government hereby directs that all provisions of the annexed Agreement for the avoidance of double taxation of income, profits and gains under the said Act which has been concluded between the Government of India and the Government of Ceylon shall be given effect to in the Union of India

**Agreement for relief from or the avoidance of double taxation  
of income between the Government of India and the  
Government of Ceylon**

Whereas the Government of India and the Government of Ceylon desire to conclude an agreement for relief from or the avoidance of double taxation of income chargeable in the two countries in accordance with their respective laws,

Now, therefore, the said two Governments do hereby agree as follows

*Article I* —The taxes which are the subject of the present Agreement are

(a) In India

the taxes imposed by the Indian Income-tax Act, 1922 (XI of 1922),

(b) In Ceylon

(i) the tax imposed by the Ceylon Profits Tax Act, 1948 (V of 1948),

(ii) the tax imposed by the Ceylon Income-tax Ordinance, 1932 (II of 1932), exclusive of the taxes mentioned in sub clauses (i), (ii) and (iii) of section 45(4)(b) of the said Ordinance

The present Agreement shall also apply to taxes that may be levied in India under a Profits Tax Act, similar to the Ceylon Profits Tax Act, 1948 (V of 1948), passed after the date of the present Agreement

*Article II* —The present Agreement shall come into force on the date on which the last of all such things shall have been done in India and Ceylon as are necessary to give the Agreement the force of law in India and Ceylon respectively, and shall thereupon have effect for the assessment year 1950 51 and subsequent assessment years

Provided that in respect of the two assessment years 1950 51 and 1951-52, instead of the abatement provided for in Articles III, IV and V of this Agreement, double income-tax relief in respect of incomes taxed both in India and Ceylon shall be computed and allowed as if the provisions of (i) the Income-tax (Double Taxation Relief) (Ceylon) Rules, 1942, in India and (ii) section 46 of the Ceylon Income-tax Ordinance, 1932 (II of 1932), in Ceylon, apply

*Article III* —Each country shall make assessment in the ordinary way under its own laws, and where either country under the operation of its

\* S 49A of the 1922 Act corresponds to s 90 of the 1961 Act Under s 297(2)(L) of the 1961 Act, this Notification is deemed to have been issued under s 90 of that Act and continues in force accordingly

laws charges any income from the sources or categories of transactions specified in column I of the Schedule to this Agreement (hereinafter referred to as the Schedule) in excess of the amount calculated according to the percentages specified in columns II and III thereof, that country shall allow an abatement equal to the lower of the amounts of tax attributable to such excess in either country

*Article IV*—Where any income accruing or arising outside the two countries is chargeable to tax in both the countries, each country shall allow an abatement equal to one half of the lower amount of tax attributable in either country to such doubly taxed income

*Article V*—Where at the time of assessment in one country the tax attributable in the other country to the excess or the doubly taxed income referred to in Articles III and IV is not known, the first country shall make a demand without allowing any abatement, but shall hold in abeyance for a period of one year (or such longer period as may be allowed by the Income tax Officer in his discretion) the collection of a portion of the demand equal to an amount estimated by him to be the abatement likely to be due. If the assessee produces a certificate of assessment in the other country within the period of one year or any longer period allowed by the Income-tax Officer, the uncollected portion of the demand shall be adjusted against the abatement allowable under the Agreement, but if no such certificate is produced within the aforesaid period, the abatement shall cease to be operative and the outstanding demand shall be collected forthwith

*Article VI*—An individual of Indian domicile, who is non-resident in Ceylon, shall be entitled to relief from the Ceylon Government equal to the excess of the Ceylon tax paid by him, by deduction or otherwise, on his Ceylon income for any assessment year over the amount which bears the same proportion to the amount which would be payable by him for that year by way of Ceylon tax if he were resident in Ceylon and chargeable in respect of his total income from all sources, wherever arising, as the amount of such Ceylon income bears to the amount of such total income from all sources

- (a) in respect of the five assessment years commencing with the assessment year 1950-51, and
- (b) in respect of any assessment year subsequent to the assessment year 1954-55 provided that during that assessment year the option provided for in the first and second provisos to sub section (1) of section 17 of the Indian Income-tax Act, 1922, is available to individuals resident in Ceylon in regard to the Indian tax payable by them

*Article VII*—(1) The taxation authorities of the Contracting Governments shall exchange such information (being information which is at their disposal under their respective taxation laws in the normal course of administration) as is necessary for carrying out the provisions of the present Agreement. Any information so exchanged shall be treated as secret and shall not be disclosed to any person other than those concerned with the assessment and collection of the taxes which are the subject of the present Agreement. No information as aforesaid shall be exchanged which would disclose any trade, business, industrial or professional secret or trade process

(2) As used in this article, the term "taxation authorities" means, in the case of India the Commissioners of Income-tax, the Assistant Commissioners of Income-tax or the Income-tax Officers, in the case of Ceylon, the Commissioner of Income-tax or his authorised representative

*Article VIII* —(a) Nothing in this Agreement shall be construed as modifying or interpreting in any manner the provisions of the relevant taxation laws in force in either country Div 4  
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(b) If any question arises in any country as to whether any income falls within any one of the items specified in the Schedule and if so under which item, the question shall be decided without any reference to the treatment of such income in the assessment made by the other country

*Article IX* —The Schedule to this Agreement may be modified from time to time by agreement between the Governments of the two countries and reference to the Schedule in the foregoing articles shall be read as references to the Schedule as modified

*Article X* —The present Agreement shall continue in effect indefinitely but either of the Contracting Governments may, on or before the 30th September in any calendar year, give to the other Contracting Government written notice of termination, and in such event the present Agreement shall cease to have effect in relation to assessments for the years of assessment commencing after the said date

### THE SCHEDULE

[See Article III]

| Source of income or nature of transaction from which income is derived<br><br>I              | Percentage of income which each country is entitled to charge under the Agreement                     |                  | Remarks<br><br>IV |
|----------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------|------------------|-------------------|
|                                                                                              | II                                                                                                    | III              |                   |
| 1 (a) Salaries including pension paid by employers other than Government                     | 100 per cent by the country in which the salary is earned by service                                  | Nil by the other |                   |
| (b) Salaries including pension paid by Government                                            | 100 per cent by the country which pays the salary                                                     | Nil by the other |                   |
| 2 (a) Interest on securities issued by the Central Government or a State Government in India | 100 per cent by India                                                                                 | Nil by Ceylon    |                   |
| (b) Interest on securities issued by the Government of Ceylon                                | 100 per cent by Ceylon                                                                                | Nil by India     |                   |
| (c) Interest on securities other than Government securities                                  | 100 per cent by the country in which the local authority or company issuing the securities is situate | Nil by the other |                   |
| 3 Income from house property                                                                 | 100 per cent by the country in which the property is situated                                         | Nil by the other |                   |
| 4 Income from profession or vocation                                                         | 100 per cent by the country in which the services are rendered                                        | Nil by the other |                   |



| Source of income or nature of transaction from which income is derived                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Percentage of income which each country is entitled to charge under the Agreement                                                                                                                                                                                       |                                                                                                                    | Remarks                                                                                                                  |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------|
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | II                                                                                                                                                                                                                                                                      | III                                                                                                                |                                                                                                                          |
| <p>5 (a) Rent or royalty from lease or hire of property</p> <p>(b) Rent or royalty or licence fees or any like consideration arising from rights granted in respect of property</p> <p>(c) Rent or royalty or any like consideration arising from any interest in property</p> <p>(d) Profits or gains from dealings in property or any interest in property</p> <p>(e) Rent or royalty for the use of or for the privilege of using patents, copyrights, goodwill, trade marks and other like property</p> <p>(f) Interest derived from money lent in one country and utilised by the borrower in the other</p> <p>(g) Transport by Sea or Air</p> | <p>100 per cent by the country in which the property is situated</p> <p>100 per cent by the country in which the asset is used</p> <p>100 per cent by the country in which the money is utilised</p> <p>100 per cent by the country in which the traffic originates</p> | <p>Nil by the other</p> <p>Nil by the other</p> <p>Nil by the other</p> <p>Nil by the other</p>                    | <p>"Property" in sub-items (a), (b), (c) and (e) herein shall not include house property referred to in item 3 above</p> |
| <p>6 (a) Goods manufactured or purchased in one country and sold to a buyer in the other country without having a branch or regular agency in the latter country</p> <p>(b) Goods manufactured by or on behalf of a person in one country and sold by him in the other country through a branch or regular agency</p> <p>(c) Goods purchased by a merchant in one country and sold through a branch or regular agency in the other country</p>                                                                                                                                                                                                      | <p>100 per cent by the country in which the goods are manufactured or purchased</p> <p>50 per cent by each country</p> <p>33<math>\frac{1}{3}</math> per cent by the country in which the goods are purchased</p>                                                       | <p>Nil by the other</p> <p>50 per cent by each country</p> <p>66<math>\frac{2}{3}</math> per cent by the other</p> |                                                                                                                          |

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| Source of income or nature of transaction from which income is derived                                                                                                                                                        | Percentage of income which each country is entitled to charge under the Agreement |                                                    | Remarks |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------|----------------------------------------------------|---------|
| I                                                                                                                                                                                                                             | II                                                                                | III                                                | IV      |
| (d) Goods purchased through a buying establishment in one country and sold by a merchant in the other country                                                                                                                 | 12½ per cent by the country in which the goods are purchased                      | 87½ per cent by the other                          |         |
| (e) Metal ores, minerals mineral oils and forest produce extracted in one country and sold to a purchaser in the other without any further manufacturing process and without a branch or regular agency in the latter country | 100 per cent by the country in which minerals are extracted                       | Nil by the other                                   |         |
| (f) As above but sold in the other country through a branch or regular agency in that country                                                                                                                                 | 75 per cent by the country in which minerals are extracted                        | 25 per cent by the country in which sales are made |         |
| 7 (a) Films produced in one country and sold to a purchaser in the other without any further process and without having an agency in the latter country                                                                       | 100 per cent by the country of production                                         | Nil by the other                                   |         |
| (b) Films produced in one country and exhibited by the producer in the other country through a regular agency in that country                                                                                                 | 50 per cent by each country                                                       | 50 per cent by each country                        |         |
| (c) Films exhibited in one country by distributors (other than producers) in the other country                                                                                                                                | 75 per cent by the country in which they are exhibited                            | 25 per cent by the other                           |         |
| 8 Any income derived from a source or category of transactions not mentioned in any of the foregoing items of the Schedule                                                                                                    | 100 per cent by the country in which the income actually accrues or arises        | Nil by the other                                   |         |

In faith whereof, the plenipotentiaries of India and Ceylon have signed the present Agreement in Hindi and English languages (the English text shall prevail in case of conflict between the two texts) and have affixed thereto their seals

Done in duplicate in Colombo on the 10th of September, 1956

For the Government of India  
B N Chakravarty,

For the Government of Ceylon  
Stanley de Zoysa,

In the presence of

K Rangaswami, First Secretary (Commercial) High Commission for India in Ceylon, Colombo

S F Amerasinghe, Permanent Secretary of the Ministry of Finance

# AGREEMENT FOR AVOIDANCE OF DOUBLE TAXATION BETWEEN INDIA AND SWITZERLAND\*

(Notification No G S R 761, dated the 29th August, 1958)

In exercise of the powers conferred by section 49A of the Indian Income tax Act, 1922 (XI of 1922), the Central Government hereby directs that all provisions of the annexed Agreement for the avoidance of double taxation of income of enterprises operating aircraft which has been concluded between the Government of India and the Swiss Federal Council shall be given effect to in the Union of India

## Agreement between the Government of India and the Swiss Federal Council concerning the taxation of enterprises operating aircraft

Whereas the Government of India and the Swiss Federal Council desire to conclude an agreement for avoidance of double taxation of income of enterprises operating aircraft chargeable in the countries in accordance with their respective laws,

Now, therefore, the said two Governments do hereby agree as follows

*Article I* —The taxes which are the subject of the present Agreement are

(a) in India

the taxes imposed by the Indian Income tax Act, 1922 (XI of 1922), hereinafter referred to as "Indian tax",

(b) in Switzerland

the federal, cantonal and communal taxes on income and profits, hereinafter referred to as "Swiss tax"

*Article II* —For the purpose of this Agreement, the expression —

(a) "the business of air transport" means the business of transporting by air persons, livestock, goods or mail carried on by the owner or hirer or charterer of aircraft,

(b) "Indian enterprises" means the Government of India, individuals resident in India and not resident in Switzerland and corporations, partnerships, Hindu undivided families or associations of persons constituted under the laws of and managed and controlled in India, including such corporations in which the Government of India have a share,

(c) "Swiss enterprises" means the Swiss Confederation or any canton thereof, individuals resident in Switzerland and not resident in India and corporations or partnerships constituted under the laws of and managed and controlled in Switzerland, including such corporations in which the Swiss Confederation or any canton thereof has a share,

(d) the term "India" shall have the same meaning assigned to it in article I of the Constitution of India,

(e) the term "Switzerland" means the Swiss Confederation,

\*S 49A of the 1922 Act corresponds to s 90 of the 1961 Act. Under s 297(2)(l) of the 1961 Act this Notification is deemed to have been issued under s 90 of that Act and continues in force accordingly

- (f) the term "Federal Decree of 1st October, 1952", means the Federal Decree authorising the Swiss Federal Council to exchange declarations of reciprocity with respect to taxes of enterprises operating ships or aircraft, of 1st October, 1952, Div 4  
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- (g) the term "internal traffic" shall mean traffic which originates and terminates within Switzerland or within India, respectively

*Article III* —(1) All income derived from the business of air transport by Swiss enterprises engaged in such business shall be exempt from Indian tax. This clause shall not, however, apply to income arising as a result of internal traffic in India.

(2) By virtue of the Federal Decree of 1st October, 1952, all income derived from the business of air transport by Indian enterprises engaged in such business shall be exempt from Swiss tax. This clause shall not, however, apply to income arising as a result of internal traffic in Switzerland.

(3) The exemption provided for in paragraphs 1 and 2 above shall also apply to Indian or Swiss enterprises participating in a pooled service, in a joint air transport operating organisation or in an international operating agency.

*Article IV* —This Agreement shall come into force on the date on which the last of all such things shall have been done in India and Switzerland as are necessary to give the Agreement the force of law in India and Switzerland respectively and shall thereupon have effect.

- (a) in India for any year of assessment beginning on or after the 1st April, 1958,
- (b) in Switzerland for any taxable year beginning on or after the 1st January, 1957.

*Article V* —This Agreement shall continue in effect for an indefinite period of time but either of the contracting Governments may, on or before the 30th September in any calendar year, give to the other contracting Government written notice of termination and in such event the Agreement shall cease to have effect.

- (a) in India for any year of assessment beginning on or after the 1st April, immediately following,
- (b) in Switzerland for any taxable year beginning on or after the 1st January, immediately following.

Done in duplicate at New Delhi, the 28th day of August, one thousand nine hundred and fifty eight, in the English, Hindi and French languages, all the texts being equally authoritative.

Hansjoerg Hess,  
For the Swiss Federal Council

V V Chari,  
For the Government of India

In the presence of

Eric Mentha,  
Commercial Secretary,  
Embassy of Switzerland,  
New Delhi

N H Naqvi,  
Secretary,-  
Central Board of Revenue,  
New Delhi

#### 4 AGREEMENT FOR AVOIDANCE OF DOUBLE TAXATION BETWEEN INDIA AND SWEDEN\*

(Notification No G S R 112, dated the 23rd January, 1959)

Whereas the annexed Agreement for the avoidance of double taxation of income between the Government of India and the Royal Government of Sweden has been ratified and the instruments of ratification exchanged, as required by Article XX of the said Agreement,

Now, therefore, in exercise of the powers conferred by section 49A of the Indian Income tax Act, 1922 (XI of 1922), the Central Government hereby directs that all provisions of the said Agreement shall be given effect to in the Union of India

#### Agreement between the Government of India and the Royal Government of Sweden for the avoidance of double taxation of income

Whereas the Government of India and the Royal Government of Sweden desire to conclude an agreement for the avoidance of double taxation of income,

Now, therefore, it is hereby agreed as follows

*Article I* —(1) The taxes which are subject of the present Agreement are  
(a) in India

- the income-tax,
- the super tax,
- the surcharge,

imposed under the Indian Income-tax Act, 1922 (XI of 1922) (hereinafter referred to as "Indian tax"),

(b) in Sweden

- (i) the State income-tax, including coupon tax,
- (ii) the tax on companies reducing share-capital (utskiftnings skatten),
- (iii) the tax on companies on undistributed profits (ersättnings skatten),
- (iv) the tax on public entertainers (bevillningsavgifterna för särskild fo maner onh rattigheter),
- (v) the communal income-tax (kommunal inkomstskatt), and
- (vi) the sailors tax (sjomansskatten)

(hereinafter referred to as "Swedish tax")

(2) The present Agreement shall also apply to any other taxes of a substantially similar character imposed in India or Sweden subsequent to the date of signature of the present Agreement

*Article II* —(1) In the present Agreement, unless the context otherwise requires

(a) the terms "one of the territories" and "the other territory" mean Sweden or India as the context requires,

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\* S 49A of the 1922 Act corresponds to s 90 of the 1961 Act Under s 297(2)(i) of the 1961 Act, this Notification is deemed to have been issued under s 90 of that Act and continues in force accordingly

- (b) the term "person" includes individuals, companies and all other entities which are treated as taxable units under the tax laws in force in the respective territories, Div 4  
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- (c) the term "company" means any entity which is treated as a body corporate or as a company for tax purposes ,
- (d) the term "tax" means Swedish tax or Indian tax, as the context requires,
- (e) the terms "resident of Sweden" and "resident of India" mean, respectively, a person who is resident in Sweden for the purposes of Swedish tax and not resident in India for the purposes of Indian tax, and a person who is resident in India for the purposes of Indian tax and not resident in Sweden for the purposes of Swedish tax

a company shall be regarded as resident in Sweden if it is incorporated in Sweden or its business is wholly managed and controlled in Sweden , a company shall be regarded as resident in India if it is incorporated in India or its business is wholly managed and controlled in India ,

- (f) the terms "Swedish enterprise" and "Indian enterprise" mean, respectively, an industrial or commercial enterprise or undertaking carried on by a resident of Sweden and an industrial or commercial enterprise or undertaking carried on by a resident of India, and the terms "enterprise of one of the territories" and "enterprise of the other territory" mean a Swedish enterprise or an Indian enterprise, as the context requires ,
- (g) the term "permanent establishment" means a fixed place of business in which the business of the enterprise is wholly or partly carried on ,
- (aa) the term "fixed place of business" shall include a place of management, a branch, an office, a factory, a workshop, a warehouse, a mine, quarry or other place of extraction of natural resources ,
- (bb) an enterprise of one of the territories shall be deemed to have a fixed place of business in the other territory if it carries on in that other territory a construction, installation or assembly project or the like ,
- (cc) the use of mere storage facilities or the maintenance of a place of business exclusively for the purchase of goods or merchandise and not for any processing of such goods or merchandise in the territory of purchase, shall not constitute a permanent establishment ,
- (dd) a person acting in one of the territories for or on behalf of an enterprise of the other territory shall be deemed to be a permanent establishment of that enterprise in the first-mentioned territory, but only if

- 1 he has and habitually exercises in the first-mentioned territory a general authority to negotiate and enter into contracts for or on behalf of the enterprise, unless the activities of the person are limited exclusively to the purchase of goods or merchandise for the enterprise, or

- 2 he habitually maintains in the first-mentioned territory a stock of goods or merchandise belonging to the enterprise from which the person regularly delivers goods or merchandise for or on behalf of the enterprise, or
  - 3 he habitually secures orders in the first mentioned territory wholly or almost wholly for the enterprise itself or for the enterprise and other enterprises which are controlled by it or have a controlling interest in it ,
- (ee) a broker of a genuinely independent status who merely acts as an intermediary between an enterprise of one of the territories and a prospective customer in the other territory shall not be deemed to be a permanent establishment of the enterprise in the last-mentioned territory ,
- (ff) the fact that a company, which is a resident of one of the territories, has a subsidiary company which either is a resident of the other territory or carries on a trade or business in that other territory (whether through a permanent establishment or otherwise) shall not, of itself constitute that subsidiary company a permanent establishment of its parent company ,
- (h) the term "competent authority" means in the case of India, the Central Government in the Ministry of Finance, Department of Revenue, and in the case of Sweden, the Minister of Finance or his authorised representative

(2) In the application of the provisions of this Agreement in one of the territories any term not otherwise defined in this Agreement shall, unless the context otherwise requires, have the meaning which it has under the laws in force in that territory relating to the taxes which are the subject of this Agreement

*Article III* —(1) Tax shall not be levied in one of the territories on the industrial or commercial profits of an enterprise of the other territory unless the profits are derived in the first-mentioned territory through a permanent establishment of the said enterprise situated in the first-mentioned territory. If profits are so derived, tax may be levied in the first-mentioned territory on the profits attributable to the said permanent establishment

(2) There shall be attributed to the permanent establishment of an enterprise of one of the territories situated in the other territory the industrial or commercial profits which it might be expected to derive in that other territory if it were an independent enterprise engaged in the same or similar activities under the same or similar conditions and dealing at arm's length with the enterprise of which it is a permanent establishment

If the information available to the taxation authority concerned is inadequate to determine the profits to be attributed to the permanent establishment, nothing in this paragraph shall affect the application of the law of either territory in relation to the liability of the enterprise to pay tax on an amount determined by the exercise of a discretion or the making of an estimate by the taxation authority of that territory. Provided that such discretion shall be exercised or such estimate shall be made, so far as the information available to the taxation authority permits, in accordance with the principle stated in this paragraph

(3) For the purposes of this Agreement the term "industrial or commercial profits" shall not include income in the form of rents, royalties, interest, dividends, management charges, remuneration for labour or personal services or income from the operation of ships or aircraft but shall include rents or royalties in respect of cinematographic films

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*Article IV* —Where an enterprise of one of the territories carries on business with an enterprise of the other territory, and it appears to the taxation authorities of the first-mentioned territory that owing to the close connection between such enterprises conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises dealing at arm's length with one another, then any profits which would but for those conditions have accrued to one of the enterprises but by reason of those conditions have not so accrued may be included in the profits of that enterprise and taxed accordingly. In consequence the necessary rectifications should be made concerning the income of the other enterprise.

*Article V* —(1) Income derived from the operation of aircraft by an enterprise of one of the territories shall not be taxed in the other territory, unless the aircraft is operated wholly or mainly between places within that other territory.

(2) Paragraph (1) shall likewise apply in respect of participations in pools of any kind by enterprises engaged in air transport.

*Article VI* —(1) When a resident of Sweden, operating ships, derives profits from India through such operations carried on in India, such profits shall be subject to tax in Sweden as well as in India, but the tax so charged in India shall be reduced by an amount equal to two-thirds of the tax so charged, and the reduced amount of Indian tax payable on the profits shall be allowed as a credit against any Swedish tax charged on income accrued to or received by the resident of Sweden during the year in which such reduced Indian tax was paid.

(2) When a resident of India, operating ships, derives profits from Sweden through such operations carried on in Sweden, such profits shall be subject to tax in India as well as in Sweden, but the tax so charged in Sweden shall be reduced by an amount equal to two-thirds of the tax so charged, and the reduced amount of Swedish tax payable on the profits shall be allowed as a credit against any Indian tax charged in respect of such income.

(3) Paragraphs (1) and (2) shall not apply to profits arising as a result of coastal traffic.

*Article VII* —Royalties derived by a resident of one of the territories from sources in the other territory may be taxed only in that other territory.

In this article, the term "royalty" means any royalty or other like amount received as consideration for the right to use copyrights, artistic or scientific works, patents, models, designs, plans, secret processes or formulae, trademarks and other like property or rights, but does not include any royalty or other like amount in respect of the operation of mines, quarries or other natural resources, or in respect of the cinematographic films.

*Article VIII* —Dividends paid by a company which is a resident of one of the territories to a resident of the other territory may be taxed only in the first-mentioned territory.



*Article IX* —Interest on bonds, securities, notes, debentures or any other form of indebtedness, derived by a resident of one of the territories from sources in the other territory may be taxed only in that other territory

*Article X* —Income from immovable property may be taxed only in the territory in which the property is situated. For this purpose any rent or royalty or other income derived from the operation of a mine, quarry or any other extraction of natural resources shall be regarded as income from immovable property

*Article XI* —Capital gains derived from the sale, exchange or transfer of a capital asset, whether movable or immovable, may be taxed only in the territory in which the capital asset is situated at the time of such sale, exchange or transfer

*Article XII* —(1) Remuneration other than pensions and annuities paid in Sweden for services rendered therein out of public funds of India shall not be taxed in Sweden unless the payment is made to a national of Sweden

(2) Remuneration other than pensions and annuities paid in India for services rendered therein out of public funds of Sweden shall not be taxed in India unless the payment is made to a national of India

(3) The provisions of paragraphs (1) and (2) of this article shall not apply to payments in respect of services in connection with any trade or business carried on by either of the Contracting Parties or political sub divisions thereof for purposes of profit

(4) The provisions of paragraphs (1) and (2) of this article shall also apply to remuneration other than pensions and annuities, paid by the Reserve Bank of India, the Public Railways Authorities and the Postal Administration of India and by Sveriges Riksbank, statens järnvägar, postverket and televerket

*Article XIII* —Any pension or annuity derived by a resident of one of the territories from sources in the other territory may be taxed only in that other territory

In this article the term "pension" means a periodic payment made in consideration of services rendered or by way of compensation for injuries received and the term "annuity" means a stated sum payable periodically at stated times during life or during a specified or ascertainable period of time under an obligation to make the payments in return for adequate and full consideration in money or money's worth

*Article XIV* —(1) Profits or remuneration for professional services or for services as an employee (including services as a director) performed in one of the territories by an individual who is a resident of the other territory may be taxed only in the territory in which such services are performed

(2) An individual who is a resident of India shall not be taxed in Sweden on profits or remuneration referred to in paragraph (1), if

(a) he is temporarily present in Sweden for a period or periods not exceeding in the aggregate 183 days during the relevant calendar year,

(b) the services are performed for or on behalf of a resident of India,

- (c) the profits or remuneration are subject to Indian tax, and Div 4
- (d) the profits or remuneration are not deducted in computing H  
the profits of an enterprise chargeable to Swedish tax

(3) An individual who is a resident of Sweden shall not be taxed in India on the profits or remuneration referred to in paragraph (1) if

- (a) he is temporarily present in India for a period or periods not exceeding in the aggregate 183 days during the relevant previous year,
- (b) the services are performed for or on behalf of a resident of Sweden,
- (c) the profits or remuneration are subject to Swedish tax, and
- (d) the profits or remuneration are not deducted in computing the profits of an enterprise chargeable to Indian tax

(4) Where an individual permanently or predominantly performs services on ships or aircraft operated by an enterprise of one of the territories such services shall be deemed to be performed in that territory

*Article XV*—A professor or teacher from one of the territories, who receives remuneration for teaching, during the period of temporary residence not exceeding two years, at a university, college, school or other educational institution in the other territory, shall not be taxed in that other territory in respect of that remuneration

*Article XVI*—(1) An individual from one of the territories who is temporarily present in the other territory solely

- (a) as a student at a university, college or school in that other territory,
- (b) as a business apprentice, or
- (c) as the recipient of a grant, allowance or award for the primary purpose of study or research from a religious, charitable, scientific or educational organisation

shall not be taxed in that other territory in respect of remittances from abroad for the purposes of his maintenance, education or training, or in respect of a scholarship

(2) An individual from one of the territories who is present in the other territory solely as a student at a university, college or school in that other territory or as a business apprentice, shall not be taxed in that other territory for a period not exceeding three consecutive years of assessment in respect of remuneration from employment in such other territory, provided that

- (a) the remuneration constitutes earnings necessary for his maintenance and education, and
- (b) the said remuneration does not exceed 4,000 Swedish crowns in the year of assessment or the equivalent thereof in the currency of India, as the case may be

*Article XVII*—(1) The laws in force in either of the territories will continue to govern the assessment and taxation of income in the respective territories except where express provision to the contrary is made in this Agreement

(2) Subject to the provision of Article VI, income from sources within Sweden which under the laws of Sweden and in accordance with this Agreement

is subject to tax in Sweden either directly or by deduction shall not be subject to Indian tax

(3) Subject to the provision of Article VI, income from sources within India which under the laws of India and in accordance with this Agreement is subject to tax in India either directly or by deduction shall not be subject to Swedish tax

(4) The graduated rate of Swedish tax to be imposed on residents of Sweden and the graduated rate of Indian tax to be imposed on residents of India may be calculated as though income which under this Agreement is not subjected to Swedish or Indian tax as the case may be, were included in the amount of the total income

*Article XVIII*—The competent authorities shall exchange such information (being information which is at their disposal under their respective taxation laws in the normal course of administration) as is necessary for carrying out the provisions of the present Agreement. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than those concerned with the assessment and collection of the taxes which are the subject of the present Agreement. No information as aforesaid shall be exchanged by the competent authority of one of the territories which would disclose any trade, business, industrial or professional secret or any trade process to the authority of the other territory

*Article XIX*—Where a resident of one of the territories shows proof that the action of the taxation authorities of the other territory has resulted or will result in double taxation contrary to the provisions of the present Agreement, he shall be entitled to present his case to the competent authority of the territory of which he is a resident. Should the competent authority be satisfied that the claim ought to be pursued further, the competent authority shall endeavour to come to an agreement with the competent authority of the other territory with a view to avoiding double taxation

*Article XX*—(1) The present Agreement shall be ratified by the Contracting Parties. Ratification by His Majesty the King of Sweden shall be subject to the consent of the Riksdag

(2) The instruments of ratification shall be exchanged at New Delhi as soon as possible

(3) Upon exchange of the instruments of ratification, the present Agreement shall have effect—

(a) in India, for any year of assessment, beginning on or after the 1st April, 1959,

(b) in Sweden

as respects the State income tax and the communal income tax on income which is assessed in or after the calendar year beginning on 1st January, 1959, being income for which preliminary tax is payable during the period 1st March, 1958, to 28th February, 1959, or any succeeding period,

as respects coupon tax on dividends payable on or after 1st January, 1959,

as respects the tax on public entertainers which is levied on or after 1st January, 1958,

as respects sailors tax on income payable on or after 1st January, 1958, and Div 4  
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as respects the other Swedish taxes which are levied on or after 1st January, 1959

*Article XXI*—This Agreement shall continue in effect indefinitely but either of the Contracting Parties may on or before the 30th day of June in any calendar year after 1961 give to the other Contracting Party notice of termination, and in such event this Agreement shall cease to be effective—

(a) in India, for any year of assessment beginning on or after the 1st April in the second calendar year following such written notice of termination,

(b) in Sweden

as respects the State income-tax and the communal income tax on income for which preliminary tax is payable after the last day of February in the calendar year next following that in which the notice is given,

as respects coupon tax on dividends payable on or after 1st January in the calendar year next following that in which the notice is given,

as respects the tax on public entertainers which is levied on or after 1st January in the calendar year next following that in which the notice is given,

as respects sailors tax on income payable on or after 1st January in the calendar year next following that in which the notice is given, and

as respects the other Swedish taxes which are levied in or after the second calendar year following that in which the notice is given

In witness whereof the undersigned duly authorised thereto have signed this Agreement and have affixed thereto their seals

Done in duplicate at Stockholm on July 30th, 1958, in the English language

For the Government of India,  
I S Chopra

For the Royal Government of Sweden,  
Osten Unden

# 4 AGREEMENT FOR AVOIDANCE OF DOUBLE TAXATION BETWEEN INDIA AND DENMARK\*

(Notification No G S R 316, dated the 9th March, 1960)

Whereas the annexed Agreement for the avoidance of double taxation of income between the Government of India and Denmark has been ratified and the instruments of ratification exchanged, as required by Article XX of the said Agreement,

Now therefore, in exercise of the powers conferred by section 49A of the Indian Income-tax Act, 1922 (XI of 1922), the Central Government hereby directs that all provisions of the said Agreement shall be given effect to in the Union of India

## Agreement between the Governments of India and Denmark for the avoidance of double taxation of income

Whereas the Governments of India and Denmark desire to conclude an agreement for the avoidance of double taxation of income,

Now, therefore, it is hereby agreed as follows

*Article I* —(1) The taxes which are the subject of the present Agreement are

(a) in India

the income tax,  
the super-tax,  
the surcharge,

imposed under the Indian Income-tax Act, 1922 (XI of 1922), hereinafter referred to as "Indian tax",

(b) in Denmark

national income taxes and  
communal income taxes

hereinafter referred to as "Danish tax"

(2) The present Agreement shall also apply to any other taxes of a substantially similar character imposed in India or Denmark subsequent to the date of signature of the present Agreement

*Article II* —(1) In the present Agreement, unless the context otherwise requires

(a) the term "Denmark" means the Kingdom of Denmark excluding the Faroe Islands and Greenland,

(b) the terms "one of the territories" and "the other territory" mean Denmark or India as the context requires,

(c) the term "person" includes natural persons, companies and all other entities which are treated as taxable units under the tax laws in force in the respective territories,

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\*S 49A of the 1922 Act corresponds to s 90 of the 1961 Act Under s 297(2)(L) of the 1961 Act, this Notification is deemed to have been issued under s 90 of that Act and continues in force accordingly

- (d) the term "company" means any entity which is treated as a body corporate or as a company for tax purposes, Div 4  
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- (e) the term "tax" means the Danish tax or Indian tax, as the context requires,
- (f) the terms "resident of Denmark" and "resident of India" mean, respectively, a person who is resident in Denmark for the purposes of Danish tax and not resident in India for the purposes of Indian tax, and a person who is resident in India for the purposes of Indian tax and not resident in Denmark for the purposes of Danish tax  
 a company shall be regarded as resident in Denmark if it is incorporated in Denmark or its business is wholly managed and controlled in Denmark, a company shall be regarded as resident in India if it is incorporated in India or its business is wholly managed and controlled in India,
- (g) the terms "Danish enterprise" and "Indian enterprise" mean, respectively, an industrial or commercial enterprise or undertaking carried on by a resident of Denmark and an industrial or commercial enterprise or undertaking carried on by a resident of India, and the terms "enterprise of one of the territories" and "enterprise of the other territory" mean a Danish enterprise or an Indian enterprise, as the context requires,
- (h) the term "permanent establishment" means a fixed place of business in which the business of the enterprise is wholly or partly carried on,
- (aa) the term "fixed place of business" shall include a place of management, a branch, an office, a factory, a workshop, a warehouse and a mine, quarry or other place of extraction of natural resources,
- (bb) an enterprise of one of the territories shall be deemed to have a fixed place of business in the other territory if it carries on in that other territory a construction, installation or assembly project or the like,
- (cc) the use of mere storage facilities or the maintenance of a place of business exclusively for the purchase of goods or merchandise and not for any processing of such goods or merchandise in the territory of purchase, shall not constitute a permanent establishment,
- (dd) a person acting in one of the territories for or on behalf of an enterprise of the other territory shall be deemed to be a permanent establishment in the first-mentioned territory, if
- 1 he has and habitually exercises in the first mentioned territory a general authority to negotiate and enter into contracts for or on behalf of the enterprise, unless the activities of the person are limited exclusively to the purchase of goods or merchandise for the enterprise, or
  - 2 he habitually maintains in the first-mentioned territory a stock of goods or merchandise belonging to the enterprise from which the person regularly delivers goods or merchandise for or on behalf of the enterprise, or
  - 3 he habitually secures orders in the first mentioned territory wholly or almost wholly for the enterprise itself, or for the enterprise and other enterprises which are controlled by it or have a controlling interest in it,

(ee) a broker of genuinely independent status who merely acts as an intermediary between an enterprise of one of the territories and a prospective customer in the other territory shall not be deemed to be a permanent establishment in that other territory where such activities do not involve securing of orders within the meaning of sub-paragraph (dd) 3 above,

(ff) the fact that a company, which is a resident of one of the territories, has a subsidiary company which either is a resident of the other territory or carries on a trade or business in that other territory whether through a permanent establishment or otherwise shall not, of itself, constitute that subsidiary company a permanent establishment of its parent company,

(i) the term "competent authority" means in the case of India, the Central Government in the Ministry of Finance, Department of Revenue, or its authorised representative, and in the case of Denmark, the Minister of Finance or his authorised representative

(2) In the application of the provisions of this Agreement in one of the territories any term not otherwise defined in this Agreement shall, unless the context otherwise requires, have the meaning which it has under the laws in force in that territory relating to the taxes which are the subject of this Agreement

*Article III*—(1) Subject to the provisions of paragraph (3) below, tax shall not be levied in one of the territories on the industrial or commercial profits of an enterprise of the other territory unless profits are derived in the first-mentioned territory through a permanent establishment of the said enterprise situated in the first-mentioned territory. If profits are so derived, tax may be levied in the first-mentioned territory on the profits attributable to the said permanent establishment

(2) There shall be attributed to the permanent establishment of an enterprise of one of the territories situated in the other territory the industrial or commercial profits which it might be expected to derive in that other territory if it were an independent enterprise engaged in the same or similar activities under the same or similar conditions and dealing at arm's length with the enterprise of which it is a permanent establishment. In any case, where the correct amount of profits attributable to a permanent establishment is incapable of determination or the ascertainment thereof presents exceptional difficulties, the profits attributable to the establishment may be estimated on a reasonable basis

(3) For the purposes of this Agreement the term "industrial or commercial profits" shall not include income in the form of rents, royalties, interest, dividends, management charges, remuneration for labour or personal services or income from the operation of ships or aircraft but shall include rents or royalties in respect of cinematographic films

*Article IV*—Where—

(a) an enterprise of one of the territories participates directly or indirectly in the management, control or capital of an enterprise of the other territory, or

(b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of one of the territories and an enterprise of the other territory,

and in either case conditions are made or imposed between the two enterprises, in their commercial or financial relations, which differ from those which would be made between independent enterprises, then any profits which but for those conditions would have accrued to one of the enterprises but by reason of those conditions have not so accrued may be included in the profits of that enterprise and taxed accordingly

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*Article V* —(1) Income derived from the operation of aircraft by an enterprise of one of the territories shall not be taxed in the other territory, unless the aircraft is operated wholly or mainly between places within that other territory

(2) Paragraph (1) shall likewise apply in respect of participations in pools of any kind by enterprises engaged in air transport

*Article VI* —(1) When a resident of Denmark, operating ships, derives profits from India through such operations carried on in India, such profits shall be subject to tax in Denmark as well as in India, but the tax so charged in India shall be reduced by an amount equal to fifty per cent thereof, and the reduced amount of Indian tax payable on the profits shall be allowed as a credit against Danish tax charged in respect of such income

(2) When a resident of India, operating ships, derives profits from Denmark through such operations carried on in Denmark, such profits shall be subject to tax in India as well as in Denmark, but the tax so charged in Denmark shall be reduced by an amount equal to fifty per cent thereof, and the reduced amount of Danish tax payable on the profits shall be allowed as a credit against Indian tax charged in respect of such income

(3) Paragraphs (1) and (2) shall not apply to profits arising as a result of coastal traffic

*Article VII* —Royalties derived by a resident of one of the territories from sources in the other territory may be taxed only in that other territory

In this article, the term "royalty" means any royalty or other like amount received as consideration for the right to use copyrights, artistic or scientific works, patents, models, designs, plans, secret processes or formulae, trade-marks and other like property or rights, but does not include any royalty or other like amount in respect of the operation mines, quarries or other natural resources or in respect of cinematographic films

*Article VIII* —Dividends paid by a company which is a resident of one of the territories to a resident of the other territory may be taxed only in the first-mentioned territory

*Article IX* —Interest on bonds, securities, notes, debentures or any other form of indebtedness, derived by a resident of one of the territories from sources in the other territory may be taxed only in that other territory

*Article X* —Income from immovable property may be taxed only in the territory in which the property is situated. For this purpose any rent or royalty or other income derived from the operation of a mine, quarry or any other extraction of natural resources shall be regarded as income from immovable property

*Article XI* —Capital gains arising from the sale, exchange or transfer of a capital asset whether movable or immovable may be taxed only in the territory in which the capital asset is situated at the time of such sale, exchange or transfer



*Article XII*—(1) Remuneration other than pensions and annuities, paid in Denmark for services rendered therein, out of public funds of India shall not be taxed in Denmark unless the payment is made to a citizen of Denmark

(2) Remuneration other than pensions and annuities, paid in India for services rendered therein, out of public funds of Denmark shall not be taxed in India unless the payment is made to a citizen of India

(3) The provisions of paragraphs (1) and (2) of this article shall not apply to payments in respect of services in connection with any trade or business carried on by either of the Contracting Parties or political sub-divisions thereof for purposes of profit

(4) The provisions of paragraphs (1) and (2) of this article shall also apply to remuneration other than pensions and annuities, paid by the Reserve Bank of India, the Public Railways Authorities and the Postal Administration of India and the National Bank of Denmark, the State Railways and the Postal Administration of Denmark

*Article XIII*—Any pension or annuity derived by a resident of one of the territories from sources in the other territory may be taxed only in that other territory

In this article, the term "pension" means a periodic payment made in consideration of services rendered or by way of compensation for injuries received and the term "annuity" means a stated sum payable periodically at stated times during life or during a specified or ascertainable period of time under an obligation to make the payments in return for adequate and full consideration in money or money's worth

*Article XIV*—(1) Profits or remuneration from professional services (including services as a director) or from services as an employee derived by an individual who is a resident of one of the territories may be taxed in the other territory only if such services are rendered in that other territory

(2) An individual who is a resident of India shall not be taxed in Denmark on profits or remuneration referred to in paragraph (1) if

- (a) he is temporarily present in Denmark for a period or periods not exceeding in the aggregate 183 days during a taxable year,
- (b) the services are rendered for or on behalf of a resident of India,
- (c) the profits or remuneration are subject to Indian tax, and
- (d) the profits or remuneration are not deducted in computing the profits of an enterprise chargeable to Danish tax

(3) An individual who is a resident of Denmark shall not be taxed in India on the profits or remuneration referred to in paragraph (1) if

- (a) he is temporarily present in India for a period or periods not exceeding in the aggregate 183 days during a relevant "previous year",
- (b) the services are rendered for or on behalf of a resident of Denmark,
- (c) the profits or remuneration are subject to Danish tax, and
- (d) the profits or remuneration are not deducted in computing the profits of an enterprise chargeable to Indian tax

(4) Where an individual permanently or predominantly renders services on ships or aircraft operated by an enterprise of one of the territories such services shall be deemed to be rendered in that territory Div 4  
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*Article XV*—A professor or teacher from one of the territories, who receives remuneration for teaching, during a period of temporary residence not exceeding two years, at a university, college, school or other educational institution in the other territory, shall not be taxed in that other territory, in respect of that remuneration

*Article XVI*—An individual from one of the territories who is temporarily present in the other territory solely

- (a) as a student at a university, college or school in such other territory,
- (b) as a business apprentice, or
- (c) as the recipient of a grant, allowance or award for the primary purpose of study or research from a religious, charitable, scientific or educational organisation

shall not be taxed in the other territory in respect of remittances from abroad for the purposes of his maintenance, education or training, in respect of a scholarship, and in respect of any amount representing remuneration for services rendered in that other territory, provided that such services are in connection with his studies or training or are necessary for the purpose of his maintenance

*Article XVII*—(1) The laws in force in either of the territories will continue to govern the assessment and taxation of income in the respective territories except where express provision to the contrary is made in this Agreement

(2) Subject to the provisions of Article VI, income from sources within Denmark which under the laws of Denmark and in accordance with this Agreement is subject to tax in Denmark either directly or by deduction shall not be subject to Indian tax

(3) Subject to the provisions of Article VI, income from sources within India which under the laws of India and in accordance with this Agreement is subject to tax in India either directly or by deduction shall not be subject to Danish tax

(4) Notwithstanding the provisions of paragraphs (2) and (3) of this Article, the items of income which under the laws of the two territories should be taken into account for calculating the rate of tax to be imposed shall continue to be so taken into account

*Article XVIII*—The competent authorities shall exchange such information (being information which is at their disposal under their respective taxation laws in the normal course of administration) as is necessary for carrying out the provisions of the present Agreement. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than those concerned with the assessment and collection of the taxes which are subject of the present Agreement. No information as aforesaid shall be exchanged by the competent authority of one of the territories which would disclose any trade, business, industrial or professional secret or any trade process to the authority of the other territory

*Article XIX*—(1) Where a resident of one of the territories shows proof that the action of the taxation authorities of the other territory has

resulted or will result in double taxation contrary to the provisions of the present Agreement, he shall be entitled to present his case to the competent authority of the territory of which he is a resident. Should his claim be deemed worthy of consideration, the competent authority to which the claim is made shall endeavour to come to an agreement with the competent authority of the other territory with a view to avoiding double taxation.

(2) The competent authorities of the Contracting Parties may likewise come to an agreement for the purpose of avoiding double taxation in cases not otherwise provided for by this Agreement as well as in cases where the interpretation or the application of this Agreement gives rise to difficulties or doubts.

*Article XX* —(1) The present Agreement shall be ratified by both the Governments and the instruments of ratification shall be exchanged at New Delhi.

(2) Thereupon, the Agreement shall have effect—

- (a) in India, for any year of assessment, beginning on or after the 1st April, 1959,
- (b) in Denmark, for any year of assessment, beginning on or after the 1st April, 1959.

*Article XXI* —This Agreement shall continue in effect indefinitely but either of the Contracting Parties may on or before the 30th day of June in any calendar year after 1961 give to the other Contracting Party notice of termination, and in such event this Agreement shall cease to be effective—

- (a) in India, for any year of assessment beginning on or after the 1st April next following such written notice of termination,
- (b) in Denmark, for any taxable year beginning on or after the 1st April next following such written notice of termination.

*Article XXII* —This Agreement may be made applicable either in its entirety, or with modifications, in respect of the territories of the Faroe Islands and Greenland, if such territories impose taxes of a character substantially similar to the taxes specified in Article I of this Agreement, and if such territories so desire and the Government of India agrees to such application. For this purpose, the Contracting Parties will communicate by an exchange of notes, incorporating the modifications and the conditions under which the Agreement will be applicable.

In witness whereof the undersigned duly authorised thereto have signed this Agreement and have affixed thereto their seals.

Done in duplicate at Copenhagen in the English language, on the 16th September, 1959.

Kewal Singh

J O Krag

EMBASSY OF INDIA

Stockholm,  
September 16, 1959

Monsieur le Ministre,

The Agreement between the Government of India and the Royal Government of Denmark for the Avoidance of Double Taxation of Income being signed today, I have the honour on behalf of the Government of India, to inform you that the provisions of Article VI of the said Agreement will

not affect the application of the provisions of sections 44A and 44B of the Indian Income-tax Act, 1922, relating to the assessment of profits from occasional shipping and tramp steamers, provided that when an adjustment is to be made under section 44C of the Indian Income-tax Act, 1922, in the case of occasional shipping or tramp steamers, the provisions of Article VI of the Agreement will apply

I should be grateful if you confirm your agreement to the above understanding of the provisions of Article VI of the said Agreement, and that in such case, this note and your reply thereto shall be deemed to be part of the Agreement

Please accept, Monsieur le Ministre, the assurance of my highest consideration

Kewal Singh,  
Ambassador of India

His Excellency, M J O Krag,  
The Minister for Foreign Affairs,  
The Royal Government of Denmark,  
Copenhagen

Copenhagen, 16th September, 1959

Monsieur l' Ambassadeur,

I have the honour to acknowledge receipt of your note of today's date reading as follows

"Monsieur le Ministre,

The Agreement between the Government of India and the Royal Government of Denmark for the Avoidance of Double Taxation of Income being signed today, I have the honour on behalf of the Government of India, to inform you that the provisions of Article VI of the said Agreement will not affect the application of the provisions of sections 44A and 44B of the Indian Income-tax Act, 1922, relating to the assessment of profits from occasional shipping and tramp steamers, provided that when an adjustment is to be made under section 44C of the Indian Income-tax Act, 1922, in the case of occasional shipping or tramp steamers, the provisions of Article VI of the Agreement will apply

I should be grateful if you confirm your agreement to the above understanding of the provisions of Article VI of the said Agreement, and that in such case, this note and your reply thereto shall be deemed to be part of the Agreement

Please accept, Monsieur le Ministre, the assurance of my highest consideration "

In reply, I have the honour to state that the Danish Government agree to the above understanding and agree that Your Excellency's Note and the present reply shall be deemed to be part of the Agreement

I avail myself of this opportunity to renew to you, Sir, the assurance of my highest consideration

J O Krag

His Excellency Mr Kewal Singh,  
Ambassador of India

## AGREEMENT FOR AVOIDANCE OF DOUBLE TAXATION BETWEEN INDIA AND NORWAY\*

(Notification No G S R 367, dated the 23rd March, 1960)

Whereas the annexed Agreement for the avoidance of double taxation of income between the Government of India and the Government of Norway has been ratified and the instruments of ratification exchanged, as required by Article XX of the said Agreement,

Now, therefore, in exercise of the powers conferred by section 49A of the Indian Income-tax Act, 1922 (XI of 1922), the Central Government hereby directs that all provisions of the said Agreement shall be given effect to in the Union of India

### Agreement between the Government of India and the Government of Norway for the avoidance of double taxation of income

Whereas the Government of India and the Government of Norway desire to conclude an agreement for the avoidance of double taxation of income,

Now, therefore, it is hereby agreed as follows

*Article I* —(1) The taxes which are the subject of the present Agreement are

(a) in India

the income-tax,

the super-tax,

the surcharge,

imposed under the Indian Income-tax Act, 1922 (XI of 1922) (hereinafter referred to as "Indian tax"),

(b) in Norway

National Income-tax,

the Communal Income-tax,

the Old Age Pensions Tax,

War Pensions Tax,

Seamen's Tax

†(hereinafter referred to as "Norwegian tax")

(2) The present Agreement shall also apply to any other taxes of a substantially similar character imposed in India or Norway subsequent to the date of signature of the present Agreement

*Article II* —(1) In the present Agreement, unless the context otherwise requires

(a) the term "Norway" means the Kingdom of Norway excluding Svalbard (Spitzbergen), Jan Mayen and the Norwegian dependencies outside Europe,

\* S 49A of the 1922 Act corresponds to s 90 of the 1961 Act Under s 297(2)(†) of the 1961 Act, this Notification is deemed to have been issued under s 90 of that Act and continues in force accordingly

† These words seem to have been inadvertently omitted in the Government Gazette

- (b) the term "one of the territories" and "the other territory" mean Norway or India as the context requires, Div 4  
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- (c) the term "person" includes natural persons, companies and all other entities which are treated as taxable units under the tax laws in force in the respective territories,
- (d) the term "company" means any entity which is treated as a body corporate or as a company for tax purposes,
- (e) the term "tax" means the Norwegian tax or Indian tax, as the context requires,
- (f) the terms "resident of Norway" and "resident of India" mean, respectively, a person who is resident in Norway for the purposes of Norwegian tax and not resident in India for the purposes of Indian tax, and a person who is resident in India for the purposes of Indian tax and not resident in Norway for the purposes of Norwegian tax. A company shall be regarded as resident in Norway if it is incorporated in Norway or its business is wholly managed and controlled in Norway, a company shall be regarded as resident in India if it is incorporated in India or its business is wholly managed and controlled in India,
- (g) the terms "Norwegian enterprise" and "Indian enterprise" mean, respectively, an industrial or commercial enterprise or undertaking carried on by a resident of Norway and an industrial or commercial enterprise or undertaking carried on by a resident of India, and the terms "enterprise of one of the territories" and "enterprise of the other territory" mean a Norwegian enterprise or an Indian enterprise, as the context requires,
- (h) the term "permanent establishment" means a fixed place of business in which the business of the enterprise is wholly or partly carried on,
- (aa) the term "fixed place of business" shall include a place of management, a branch, an office, a factory, a workshop, a warehouse, a mine, quarry or other place of extraction of natural resources,
- (bb) an enterprise of one of the territories shall be deemed to have a fixed place of business in the other territory if it carries on in that other territory a construction, installation or assembly project or the like,
- (cc) the use of mere storage facilities or the maintenance of a place of business exclusively for the purchase of goods or merchandise and not for any processing of such goods or merchandise in the territory of purchase, shall not constitute a permanent establishment,
- (dd) a person acting in one of the territories for or on behalf of an enterprise of the other territory shall be deemed to be a permanent establishment of that enterprise in the first-mentioned territory, but only if
- I he has and habitually exercises in the first-mentioned territory a general authority to negotiate and enter into contracts for or on behalf of the enterprise, unless the activities of the person are limited exclusively to the purchase of goods or merchandise for the enterprise, or

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- 2 he habitually maintains in the first mentioned territory a stock of goods or merchandise belonging to the enterprise from which the person regularly delivers goods or merchandise for or on behalf of the enterprise, or
  - 3 he habitually secures orders in the first mentioned territory wholly or almost wholly for the enterprise itself or for the enterprise and other enterprises which are controlled by it or have a controlling interest in it,
- (ee) a broker of a genuinely independent status who merely acts as an intermediary between an enterprise of one of the territories and a prospective customer in the other territory shall not be deemed to be a permanent establishment of the enterprise in the last-mentioned territory,
- (ff) the fact that a company, which is a resident of one of the territories, has a subsidiary company which either is a resident of the other territory or carries on a trade or business in that other territory (whether through a permanent establishment or otherwise) shall not, of itself, constitute that subsidiary company a permanent establishment of its parent company,
- (i) the term "pension" means a periodic payment made in consideration of services rendered or by way of compensation for injuries received,
  - (j) the term "annuity" means a stated sum payable periodically at stated times during life or during a specified or ascertainable period of time under an obligation to make the payments in return for adequate and full consideration in money or money's worth,
  - (k) the term "competent authority" means in the case of India, the Central Government in the Ministry of Finance, Department of Revenue, or its authorised representative and in the case of Norway, the Ministry of Finance and Customs or its authorised representative

(2) In the application of the provisions of this Agreement in one of the territories any term not otherwise defined in this Agreement shall, unless the context otherwise requires, have the meaning which it has under the laws in force in that territory relating to the taxes which are the subject of this Agreement

*Article III* —(1) Subject to the provisions of paragraph (3) below, tax shall not be levied in one of the territories on the industrial or commercial profits of an enterprise of the other territory unless profits are derived in the first mentioned territory through a permanent establishment of the said enterprise situated in the first mentioned territory. If profits are so derived, tax may be levied in the first-mentioned territory on the profits attributable to the said permanent establishment

(2) There shall be attributed to the permanent establishment of an enterprise of one of the territories situated in the other territory the industrial or commercial profits which it might be expected to derive in that other territory if it were an independent enterprise engaged in the same or similar activities under the same or similar conditions and dealing at arm's length with the enterprise of which it is a permanent establishment. In any case, where the correct amount of profits attributable to a permanent establishment is incapable of determination, or the ascertainment thereof presents exceptional difficulties, the profits attributable to the establishment may be estimated on a reasonable basis

(3) For the purposes of this Agreement the term "industrial or commercial profits" shall not include income in the form of rents, royalties, interest, dividends, management charges, remuneration for labour or personal services or income from the operation of ships or aircraft

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*Article IV* —Where—

- (a) an enterprise of one of the territories participates directly or indirectly in the management, control or capital of an enterprise of the other territory, or
- (b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of one of the territories and an enterprise of the other territory,

and in either case conditions are made or imposed between the two enterprises, in their commercial or financial relations, which differ from those which would be made between independent enterprises, then any profits which but for those conditions would have accrued to one of the enterprises but by reason of those conditions have not so accrued may be included in the profits of that enterprise and taxed accordingly

*Article V* —(1) Income derived from the operation of aircraft by an enterprise of one of the territories shall not be taxed in the other territory, unless the aircraft is operated wholly or mainly between places within that other territory

(2) Paragraph (1) shall likewise apply in respect of participations in pools of any kind by enterprises engaged in air transport

*Article VI* —(1) When a resident of Norway, operating ships, derives profits from India through such operations carried on in India, such profits shall be subject to tax in Norway as well as in India, but the tax so charged in India shall be reduced by an amount equal to 50% of the tax so charged, and the reduced amount of Indian tax payable on the profits shall be allowed as a credit against Norwegian tax charged on income accrued to or received by the resident of Norway during the year in which such reduced Indian tax was paid

(2) When a resident of India, operating ships, derives profits from Norway through such operations carried on in Norway, such profits shall be subject to tax in India as well as in Norway, but the tax so charged in Norway shall be reduced by an amount equal to 50% of the tax so charged and the reduced amount of Norwegian tax payable on the profits shall be allowed as a credit against Indian tax charged in respect of such income

(3) Paragraphs (1) and (2) shall not apply to profits arising as a result of coastal traffic

*Article VII* —Royalties derived by a resident of one of the territories from sources in the other territory may be taxed only in that other territory

In this article, the term "royalty" means any royalty or other like amount received as consideration for the right to use copyrights, artistic or scientific works, cinematographic films, patents, models, designs, plans, secret processes or formulae, trade-marks and other like property or rights, but does not include any royalty or other like amount in respect of the operation of mines, quarries or other natural resources

*Article VIII* —Dividends paid by a company which is a resident of one of the territories to a resident of the other territory may be taxed only in the first-mentioned territory



*Article IX* —Interest on bonds, securities, notes, debentures or any other form of indebtedness derived by a resident of one of the territories from sources in the other territory may be taxed only in that other territory

*Article X* —Income from immovable property may be taxed only in the territory in which the property is situated. For this purpose any rent or royalty or other income derived from the operation of a mine, quarry or any other extraction of natural resources shall be regarded as income from immovable property

*Article XI* —Capital gains derived from the sale, exchange or transfer of a capital asset, whether movable or immovable, may be taxed only in the territory in which the capital asset is situated at the time of such sale, exchange or transfer

*Article XII* —(1) Remuneration other than pensions and annuities, paid in Norway for services rendered therein, out of public funds of India shall not be taxed in Norway unless the payment is made to a citizen of Norway

(2) Remuneration other than pensions and annuities, paid in India for services rendered therein, out of public funds of Norway shall not be taxed in India unless the payment is made to a citizen of India

(3) The provisions of paragraphs (1) and (2) of this article shall not apply to payments in respect of services in connection with any trade or business carried on by either of the Contracting Parties or political subdivisions thereof for purposes of profit

(4) The provisions of paragraphs (1) and (2) of this article shall also apply to remuneration other than pensions and annuities, paid by the Reserve Bank of India, the Public Railways Authorities and the Postal Administration of India and by the Bank of Norway (Norges Bank), Norwegian State Railways (Norges Statsbaner) and the Norwegian Postal and Telegraphic Administration (Post-og-telegrafverket)

*Article XIII* —Any pension or annuity derived by a resident of one of the territories from sources in the other territory may be taxed only in that other territory

*Article XIV* —(1) Profits or remuneration for professional services or for services as an employee (including services as a director) performed in one of the territories by an individual who is a resident of the other territory may be taxed only in the territory in which such services are performed

(2) An individual who is a resident of India shall not be taxed in Norway on profits or remuneration referred to in paragraph (1) if

(a) he is temporarily present in Norway for a period or periods not exceeding in the aggregate 183 days during the relevant taxable year,

(b) the services are performed for or on behalf of a resident of India,

(c) the profits or remuneration are subject to Indian tax, and

(d) the profits or remuneration are not deducted in computing the profits of an enterprise chargeable to Norwegian tax.

(3) An individual who is a resident of Norway shall not be taxed in India on the profits or remuneration referred to in paragraph (1) if

(a) he is temporarily present in India for a period or periods not exceeding in the aggregate 183 days during the relevant "previous year",

- (b) the services are rendered for or on behalf of a resident of Norway, Div 4  
 (c) the profits or remuneration are subject to Norwegian tax, and H  
 (d) the profits or remuneration are not deducted in computing the profits of an enterprise chargeable to Indian tax

(4) Where an individual permanently or predominantly performs services on ships or aircraft in international traffic operated by an enterprise of one of the territories profits or remuneration from such services may be taxed only by the country of which the individual is resident

*Article XV*—A professor or teacher from one of the territories, who receives remuneration for teaching, during a period of temporary residence not exceeding two years, at a university, college, school or other educational institution in the other territory, shall not be taxed in that other territory, in respect of that remuneration

*Article XVI*—An individual from one of the territories who is temporarily present in the other territory solely

- (a) as a student at a university, college or school in such other territory,  
 (b) as a business apprentice, or  
 (c) as the recipient of a grant, allowance or award for the primary purpose of study or research from a religious, charitable, scientific or educational organisation

shall not be taxed in the other territory in respect of remittances from abroad for the purposes of his maintenance, education or training, in respect of a scholarship, and in respect of any amount representing remuneration for services rendered in that other territory, provided that such services are in connection with his studies or training or are necessary for the purpose of his maintenance

*Article XVII*—(1) The laws in force in either of the territories will continue to govern the assessment and taxation of income in the respective territories except where express provision to the contrary is made in this Agreement

(2) Subject to the provision of Article VI income from sources within Norway which under the laws of Norway and in accordance with this Agreement is subject to tax in Norway either directly or by deduction shall not be subject to Indian tax

(3) Subject to the provision of Article VI income from sources within India which under the laws of India and in accordance with this Agreement is subject to tax in India either directly or by deduction shall not be subject to Norwegian tax

(4) The graduated rate of Norwegian tax to be imposed on residents of Norway and the graduated rate of Indian tax to be imposed on residents of India may be calculated as though income which under this Agreement is not subject to Norwegian or Indian tax, as the case may be, were included in the amount of the total income

*Article XVIII*—The competent authorities shall exchange such information (being information which is at their disposal under their respective taxation laws in the normal course of administration) as is necessary for carrying out the provisions of the present Agreement Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than those concerned with the assessment and collection of the taxes which are the subject of the present Agreement No information as aforesaid

4 shall be exchanged by the competent authority of one of the territories which would disclose any trade, business, industrial or professional secret or any trade process to the authority of the other territory

*Article XIX*—Where a resident of one of the territories shows proof that the action of the taxation authorities of the other territory has resulted or will result in double taxation contrary to the provisions of the present Agreement, he shall be entitled to present his case to the competent authority of the territory of which he is a resident. Should his claim be deemed worthy of consideration, the competent authority to which the claim is made shall endeavour to come to an agreement with the competent authority of the other territory with a view to avoiding double taxation.

*Article XX*—(1) The present Agreement shall be ratified and the instruments of ratification shall be exchanged at OSLO as soon as possible.

(2) Upon exchange of the instruments of ratification, the present Agreement shall have effect—

(a) in India, for any year of assessment, beginning on or after the 1st April, 1959,

(b) in Norway, for any taxable year, beginning on or after the 1st January, 1958.

*Article XXI*—This Agreement shall continue in effect indefinitely but either of the Contracting Parties may on or before the 30th day of June in any calendar year after 1960 give to the other Contracting Party notice of termination, and in such event this Agreement shall cease to be effective—

(a) in India, for any year of assessment beginning on or after the 1st April in the second calendar year following such written notice of termination,

(b) in Norway, for any taxable year beginning on or after the 1st January next following such written notice of termination.

In witness whereof the undersigned duly authorised thereto have signed this Agreement and have affixed thereto their seals.

Done in duplicate at New Delhi on the 20th July, 1959, in the English language.

Dr B Gopala Reddi  
Minister for Revenue and  
Civil Expenditure,  
Government of India

Hans Olav  
Ambassador of Norway  
in India

New Delhi, 20th July, 1959

Dear Sir,

The Agreement between the Government of India and the Government of Norway for the Avoidance of Double Taxation of Income being signed today, I have the honour, on behalf of the Government of India, to inform you that the two Contracting Parties have agreed that the provisions of Article VI of the said Agreement will not affect the application of the provisions of sections 44A and 44B of the Indian Income-tax Act, 1922, relating to the assessment of profits from occasional shipping and tramp steamers, provided that when an adjustment is to be made under section 44C of the Indian Income-tax Act, 1922, in the case of occasional shipping or tramp steamers, the provisions of Article VI of the Agreement will apply.

I should be grateful if you confirm your agreement to the above understanding of the provisions of Article VI of the said Agreement, and that in such case, this note and your reply thereto shall be deemed to be part of the Agreement Div 4  
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Please accept, Mr Ambassador, the assurance of my highest consideration

Dr B Gopala Reddi

To

His Excellency Mr Hans Olav,  
Ambassador of Norway,  
New Delhi

New Delhi, the 20th July, 1959

Mr Minister,

With reference to the Agreement signed today between the Government of Norway and the Government of India for the Avoidance of Double Taxation of Income, you, on behalf of the Government of India, informed me of the following

"The Agreement between the Government of India and the Government of Norway for the Avoidance of Double Taxation of Income being signed today, I have the honour, on behalf of the Government of India, to inform you that the two Contracting Parties have agreed that the provisions of Article VI of the said Agreement will not affect the application of the provisions of sections 44A and 44B of the Indian Income tax Act, 1922, relating to the assessment of profits from occasional shipping and tramp steamers, provided that when an adjustment is to be made under section 44C of the Indian Income-tax Act, 1922, in the case of occasional shipping or tramp steamers, the provisions of Article VI of the Agreement will apply

I should be grateful if you confirm your agreement to the above understanding of the provisions of Article VI of the said Agreement, and that in such case, this note and your reply thereto shall be deemed to be part of the Agreement "

2 I have the honour to confirm that this proposal meets with the approval of the Government of Norway Your note of today's date and my reply thereto shall, therefore, be part of the Agreement

3 Please accept, Mr Minister, the assurance of my highest consideration

Hans Olav

To

Dr B Gopala Reddi,  
Minister for Revenue & Civil Expenditure,  
Government of India,  
New Delhi

# AGREEMENT FOR AVOIDANCE OF DOUBLE TAXATION BETWEEN INDIA AND JAPAN\*

(Notification No G S R 692, dated the 13th June, 1960)

Whereas the annexed Agreement for the avoidance of double taxation of income between the Government of India and the Government of Japan has been ratified and the instruments of ratification exchanged, as required by Article XVI of the said Agreement,

Now, therefore, in exercise of the powers conferred by section 49A of the Indian Income tax Act, 1922 (XI of 1922), the Central Government hereby directs that all provisions of the said Agreement shall be given effect to in the Union of India

## Agreement between India and Japan for the avoidance of double taxation in respect of taxes on income

The Government of India and the Government of Japan,

Desiring to conclude an agreement for the avoidance of double taxation in respect of taxes on income,

Have appointed for that purpose as their respective Plenipotentiaries,  
The Government of India

Dr B Gopala Reddi, Minister of Revenue and Civil Expenditure of the Government of India,

The Government of Japan

Dr Shiroshi Nasu, Ambassador Extraordinary and Plenipotentiary of Japan to India,

Who, having communicated to one another their respective full powers, found in good and due form,

Have agreed as follows

*Article I* —(1) The taxes which are the subject of the present Agreement are

(a) in India

the income-tax,  
the super-tax and  
the surcharge,

imposed under the Indian Income-tax Act, 1922 (XI of 1922) (hereinafter referred to as "Indian tax"),

(b) in Japan

the income-tax and  
the corporation tax

(hereinafter referred to as "Japanese tax")

(2) The present Agreement shall also apply to any other taxes on income or profits which has a substantially similar character to those referred to in paragraph (1) of this Article and which may be imposed by either Contracting State after the date of signature of the present Agreement

\* S 49A of the 1922 Act corresponds to s 90 of the 1961 Act Under s 297(2)(k) of the 1961 Act, this Notification is deemed to have been issued under s 90 of that Act and continues in force accordingly

*Article II* —(1) In the present Agreement, unless the context otherwise requires Div 4  
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- (a) (i) the term "India", when used in a geographical sense, means all the territory in which the laws relating to Indian tax are in force,
- (ii) the term "Japan", when used in a geographical sense, means all the territory in which the laws relating to Japanese tax are in force,
- (b) the terms "one of the Contracting States" and "the other Contracting State" mean India or Japan, as the context requires,
- (c) the term "tax" means Indian tax or Japanese tax, as the context requires,
- (d) the term "Indian corporation" means any entity treated as a company for the purposes of Indian tax which is incorporated in India or the business of which is wholly managed and controlled in India and which does not have its head or principal office in Japan, and the term "Japanese corporation" means any corporation or other association having juridical personality or any association without juridical personality which has its head or principal office in Japan and the business of which is not wholly managed and controlled in India,
- (e) the term "resident of India" means any natural person or any entity other than an Indian corporation which is treated as a taxable unit for the purposes of Indian tax, being resident in India for the purposes of Indian tax and not being resident in Japan for the purposes of Japanese tax, and any Indian corporation, and the term "resident of Japan" means any individual being resident in Japan for the purposes of Japanese tax and not being resident in India for the purposes of Indian tax, and any Japanese corporation,
- (f) the terms "corporation of one of the Contracting States" and "corporation of the other Contracting State" mean an Indian corporation or a Japanese corporation, as the context requires,
- (g) the "Indian enterprise" means an industrial or commercial enterprise or undertaking carried on by a resident of India, and the term "Japanese enterprise" means an industrial or commercial enterprise or undertaking carried on by a resident of Japan,
- (h) the terms "enterprise of one of the Contracting States" and "enterprise of the other Contracting State" mean an Indian enterprise or a Japanese enterprise, as the context requires,
- (i) the term "permanent establishment" means a fixed place of business in which the business of an enterprise is carried on,
  - (i) the term "fixed place of business" shall include a branch, an office, a factory, a workshop, a warehouse and a mine, a quarry or other place of extraction of natural resources,
  - (ii) an enterprise of one of the Contracting States shall be deemed to have a fixed place of business in the other Contracting State if it carries on in that other Contracting State a construction, erection or assembly project or the like,
  - (iii) the use of mere storage facilities or the maintenance of a place of business exclusively for the purchase of goods or merchandise and not for any processing of such goods or merchandise in the

(2) Where an enterprise of one of the Contracting States has a permanent establishment situated in the other Contracting State, there shall be attributed to such permanent establishment the industrial or commercial profits which it might be expected to derive in that other Contracting State, if it were an independent enterprise engaged in the same or similar activities under the same or similar conditions and dealing on an independent basis with the enterprise of which it is a permanent establishment

(3) In determining the industrial or commercial profits of a permanent establishment, there shall be allowed as deductions all expenses wherever incurred, reasonably allocable to such permanent establishment, including executive and general administrative expenses so allocable

(4) In a case where the ascertainment of the correct amount of the industrial or commercial profits of a permanent establishment presents difficulties, such profits may be reasonably estimated with reference to the extent to which the activities of such permanent establishment have contributed to earning of profits

(5) The term "industrial or commercial profits" as used in this Article shall not include income in the form of dividends, interest, rents, royalties and similar payments as referred to in paragraph (e) of Article X, capital gains, remuneration for personal services, or fees for technical services as referred to in paragraph (k) of Article X

(6) The competent authorities of both Contracting States may, consistent with the provisions of the present Agreement, arrange details for the apportionment of industrial or commercial profits

#### *Article IV —Where—*

- (a) an enterprise of one of the Contracting States participates directly or indirectly in the managerial or financial control of an enterprise of the other Contracting State, or
- (b) the same persons participate directly or indirectly in the managerial or financial control of an enterprise of one of the Contracting States and an enterprise of the other Contracting State,

and in either case, conditions are made or imposed between the two enterprises, in their commercial or financial relations, which differ from those which would be made between independent enterprises, then any profits which but for such conditions would have accrued to one of the enterprises but by reason of such conditions have not so accrued may be included in the profits of such enterprise and taxed accordingly

*Article V —*(1) The profits which an enterprise of one of the Contracting States derives from the operation of aircraft shall not be subjected to tax in the other Contracting State unless the aircraft are operated wholly or mainly between places within that other Contracting State

(2) The amount of tax imposed by one of the Contracting States on profits which an enterprise of the other Contracting State derives from the operation of ships shall be reduced by an amount equal to fifty per cent thereof unless the ships are operated wholly or mainly between places within the former Contracting State

(3) The provisions of paragraph (2) of this article shall not, in the case of India, affect the provisions of sections 44A and 44B of the Indian Income tax Act, 1922 (XI of 1922), effective on the date of signature of the present Agreement, relating to the assessment of profits from occasional shipping or tramp steamers. When an adjustment is to be made under the provisions of section 44C of the said Act, effective on the date of signature of the present

- 4 Agreement, in the case of occasional shipping or tramp steamers, the provisions of paragraph (2) shall apply

*Article VI*—(1)(a) Salaries, wages, pensions or similar remuneration paid by, or paid out of funds created by, the Government of India or any political sub-division thereof or any local authority of India, to an individual who is a national of India (other than an individual who has been admitted to Japan for permanent residence therein) in respect of services rendered to such Governments or local authority shall not be subjected to tax in Japan

(b) Salaries, wages, pensions or similar remuneration paid by the Government of Japan or any local authority of Japan, or paid out of funds to which the Government of Japan or any local authority of Japan contributes to an individual who is a national of Japan (other than an individual who has been admitted to India for permanent residence therein) in respect of services rendered to such Government or local authority shall not be subjected to tax in India

(2) The provisions of paragraph (1) of this article shall not apply to salaries, wages, pensions or similar remuneration paid in respect of services rendered in connection with any trade or business carried on by such Governments or local authorities for the purposes of profit

*Article VII*—Remuneration paid to an individual who is resident in one of the Contracting States for personal services performed within the other Contracting State shall not be subjected to tax in that other Contracting State, if

- (a) he is present within that other Contracting State for a period or periods not exceeding in the aggregate 183 days during any taxable year or "previous year", as the case may be,
- (b) the services are performed for or on behalf of a resident of the former Contracting State, and
- (c) the remuneration is not deducted in computing the profits of an enterprise chargeable to tax in that other Contracting State

*Article VIII*—An individual who is resident in one of the Contracting States at the beginning of a visit to the other Contracting State and who at the invitation of the Government of the other Contracting State, or of a university, a college, a school or other educational institution in that other Contracting State, visits that other Contracting State for a period not exceeding two years for the purpose of teaching or engaging in research at such educational institution in that other Contracting State shall not be subjected to tax in that other Contracting State on the remuneration for such teaching or research

*Article IX*—(1) An individual who is resident in one of the Contracting States at the beginning of a visit to the other Contracting State and is temporarily present in that other Contracting State solely

- (a) as a student at a recognised university, college or school in that other Contracting State,
- (b) as a recipient of grant, allowance or award for the primary purpose of study or research from a governmental, religious, charitable, scientific, literary or educational organisation, or
- (c) as a business apprentice,

shall not be subjected to tax in that other Contracting State on,—

- (i) remittances from abroad for the purposes of his maintenance, education, study or research,



- (ii) the grant, allowance or award,
- (iii) remuneration for personal services in that other Contracting State not exceeding the sum of 360,000 Yen or its equivalent sum in Indian currency, during any taxable year or "previous year", as the case may be

In this paragraph, the term "business apprentice" means an individual having a little or no technical, professional or business experience

(2) An individual who is resident in one of the Contracting States at the beginning of a visit to the other Contracting State and is temporarily present in that other Contracting State for a period not exceeding twelve months as an employee of, or under contract with, an enterprise of the former Contracting State, or an organisation referred to in paragraph (1)(b) above, solely to acquire technical, professional or business experience from a person other than such enterprise or organisation, shall not be subjected to tax in that other Contracting State on the remuneration for such period, received from abroad, or paid in that other Contracting State for his services directly related to the acquisition of such experience, if the amount thereof does not exceed the sum of 1,000,000 Yen or its equivalent sum in Indian currency, during any taxable year or "previous year", as the case may be

(3) An individual who is resident in one of the Contracting States at the beginning of a visit to the other Contracting State and is temporarily present in that other Contracting State under arrangements with a government in that other Contracting State or any agency thereof solely for the purpose of training, study or orientation shall not be subjected to tax in that other Contracting State on remuneration, received from abroad, or paid in that other Contracting State for his services directly related to such training, study or orientation, if the amount thereof does not exceed the sum of 1,000,000 Yen or its equivalent sum in Indian currency, during any taxable year or "previous year", as the case may be

(4) The benefits of paragraph (1), (2) or (3) of this Article shall not be cumulative

*Article X* —For the purposes of the present Agreement

- (a) The industrial or commercial profits other than those mentioned in paragraph (b) below derived from the sale of goods or merchandise shall be treated as derived in part from the country in which such goods or merchandise are purchased and in part from the country in which such goods or merchandise are sold
- (b) The industrial or commercial profits derived by an enterprise from the sale in one of the Contracting States of goods manufactured or produced in the other Contracting State in whole or in part by such enterprise shall be treated as derived in part from the country in which such goods are manufactured or produced and in part from the country in which such goods are sold
- (c) (i) Interest on bonds or debentures issued by a government or a local authority or a corporation of one of the Contracting States, or on deposits made in one of the Contracting States shall be treated as income from sources within that Contracting State
- (ii) Interest on loans made to a government or a local authority or a resident of one of the Contracting States shall be treated as income from sources within that Contracting State
- (iii) Interest on loans made to a branch or other establishment in one of the Contracting States of an enterprise of the other

Contracting State shall be treated as income from sources within the former Contracting State

(d) As regards dividends

(i) on the part of India, dividends declared in India shall be treated as income from sources within India,

(ii) on the part of Japan, dividends paid by a Japanese Corporation shall be treated as income from sources within Japan

(e) Royalties and similar payments paid as consideration for the use of, or for the right to use, in one of the Contracting States, any copyrights, artistic or scientific works or equipments, patents, designs, secret processes and formulæ, trade marks, cinematographic films (including films for use in connection with television) and other like properties and fees for technical services rendered in that connection, shall be treated as income from sources within that Contracting State

(f) Profits or gains derived from the sale, transfer or exchange of the property mentioned in paragraph (e) above shall be treated as income from sources within the Contracting State in which such property is to be used

(g) Income derived from immovable property (including profits or gains derived from the sale, transfer or exchange of such property) and royalties in respect of the operation of mines, quarries, or other places of extraction of natural resources shall be treated as income from sources within the Contracting State in which such immovable property, mines, quarries, or other places of extraction of natural resources are situated

(h) Profits or gains derived from the sale, transfer or exchange of ships or aircraft shall be treated as income from sources within the Contracting State in which such ships or aircraft are registered

(i) Profits or gains (excluding industrial or commercial profits) derived from the sale, transfer or exchange of movable property (excluding shares, bonds, debentures and similar assets) of a branch or other establishment in one of the Contracting States of an enterprise of the other Contracting State shall be treated as income from sources within the former Contracting State

(j) Salaries, wages, or similar remuneration for personal services as well as remuneration for professional services shall be treated as income from sources within the Contracting State in which are rendered the services for which such remuneration is paid, and the services performed in ships or aircraft operated by an enterprise of one of the Contracting States shall be deemed to be rendered in that Contracting State

(k) Fees for technical services payable to an enterprise shall be treated as income from sources within the Contracting State in which are rendered the services for which such fees are paid

*Article XI*—(1) The laws in force in either of the Contracting States will continue to govern the taxation of income in the respective Contracting States except where provisions to the contrary are made in the present Agreement

(2) The amount of Japanese tax payable, under the laws of Japan and in accordance with the provisions of the present Agreement, whether directly

or by deduction, by a resident of India, in respect of income from sources within Japan which has been subjected to tax both in India and Japan, shall be allowed as a credit against Indian tax payable in respect of such income, but in an amount not exceeding that proportion of Indian tax which such income bears to the entire income chargeable to Indian tax

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(3) (a) The amount of Indian tax payable under the laws of India and in accordance with the provisions of the present Agreement, whether directly or by deduction, by a taxpayer in Japan, in respect of income from sources within India which has been subjected to tax both in India and Japan, shall be allowed as a credit against Japanese tax payable in respect of such income, but in an amount not exceeding that proportion of Japanese tax which such income bears to the entire income chargeable to Japanese tax

(b) For the purposes of the credit referred to in paragraph (a) above, there shall be deemed to have been paid by the taxpayer the amount by which Indian tax has been reduced by the special incentive measures designed to promote economic development in India set forth in the following sections of the Indian Income-tax Act, 1922 (XI of 1922), provided that the scope of the benefit accorded to the taxpayer by the said measures effective on the date of signature of the present Agreement is not increased

- (i) section 4(3)(xii b)—relating to exemption from tax of interest payable on money borrowed abroad,
- (ii) section 10(2)(vi-b)—relating to development rebate,
- (iii) section 15C—relating to exemption from tax of newly established industrial undertakings,
- (iv) section 56A—relating to exemption from super tax of dividends received by corporations from Indian companies engaged in certain basic industrial undertakings

*Article XII*—The competent authorities of the Contracting States shall exchange such information available to them under their respective tax laws in the normal course of administration as is necessary for carrying out the provisions of the present Agreement. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than those including a court, concerned with the assessment and collection of tax or the disposal of appeals relating thereto. No information shall be exchanged which would disclose any trade, business, industrial or professional secret or any trade process

*Article XIII*—(1) Any taxpayer may make a representation to the competent authorities of the Contracting State of which the taxpayer is a resident, if the action of the taxation authorities of either Contracting State has resulted or will result in double taxation contrary to the provisions of the present Agreement. Should the representation be deemed worthy of consideration by the competent authorities of that Contracting State, who find it necessary in this connection to come to an agreement with the competent authorities of the other Contracting State with a view to avoidance of the double taxation in question, the competent authorities of the former Contracting State shall endeavour to come to such an agreement with the competent authorities of that other Contracting State

(2) Should any difficulty or doubt arise as to the interpretation or application of the present Agreement the Governments or the competent authorities of the Contracting States may settle the question by mutual agreement

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H (3) Details including procedures for the implementation of the present Agreement may be agreed upon through consultation between the Governments or between the competent authorities of the Contracting States

*Article XIV*—The provisions of the present Agreement shall not be construed to restrict in any manner any exemption, deduction, credit or other allowance now or hereafter accorded by the laws of one of the Contracting States in determining the tax of that Contracting State

*Article XV*—The nationals of one of the Contracting States shall not be subjected in the other Contracting State to tax which is more burdensome than tax to which the nationals of that other Contracting State in the same circumstances are subjected

*Article XVI*—(1) The present Agreement shall be ratified and the instruments of ratification shall be exchanged at Tokyo as soon as possible

(2) The present Agreement shall enter into force on the date of exchange of instruments of ratification and shall be applicable

(a) on the part of India, in respect of income derived during the "previous years" beginning on or after the 1st day of January of the calendar year in which the exchange of instruments of ratification takes place,

(b) on the part of Japan, in respect of income derived during the taxable years beginning on or after the 1st day of January of the calendar year in which the exchange of instruments of ratification takes place

(3) Either of the Contracting States may terminate the present Agreement at any time after a period of three years shall have expired from the date on which the present Agreement enters into force, by giving to the other Contracting State notice of termination, provided that such notice is given on or before the 30th day of June and, in such event, the present Agreement shall cease to be effective

(a) on the part of India, in respect of income derived during the "previous years" beginning on or after the 1st day of January next following such notice of termination,

(b) on the part of Japan, in respect of income derived during the taxable years beginning on or after the 1st day of January next following such notice of termination

In witness whereof the undersigned Plenipotentiaries have signed the present Agreement

Done at New Delhi in duplicate in the English language on the 5th day of January, 1960

B Gopala Reddi,  
for India

Shiroshi Nasu,  
for Japan

#### *Protocol*

The Government of India and the Government of Japan,

Considering that the Government of India has taken and may take special incentive measures designed to promote economic development in India,

Recognising that the achievement of the objectives of such measures in relation to capital and technology supplied to India from Japan requires, in addition to the arrangement provided for in paragraph (3)(b) of Article XI

# AGREEMENT FOR AVOIDANCE OF DOUBLE TAXATION BETWEEN INDIA AND THE FEDERAL GERMAN REPUBLIC\*

(Notification No G S R 1090, dated the 13th September, 1960)

WHEREAS the annexed Agreement for the avoidance of double taxation of income between the Government of India and the Government of the Federal Republic of Germany has been ratified and the instruments of ratification exchanged as required by Article XX of the said Agreement,

Now, therefore, in exercise of the powers conferred by section 49A of the Indian Income tax Act, 1922 (XI of 1922), the Central Government hereby directs that all provisions of the said Agreement shall be given effect to in the Union of India

## Agreement between the Government of India and the Government of the Federal Republic of Germany for the avoidance of double taxation of income

Whereas the Government of India and the Government of the Federal Republic of Germany desire to conclude an agreement for the avoidance of double taxation of income,

Now, therefore, it is hereby agreed as follows

*Article I* —(1) The taxes which are the subject of the present Agreement are

(a) in India

the income-tax,  
the super-tax,  
the surcharge,

imposed under the Indian Income-tax Act, 1922 (XI of 1922) (hereinafter referred to as "Indian tax"),

(b) in the Federal Republic of Germany

the Einkommensteuer (income-tax),  
the Körperschaftsteuer (corporation tax),  
the Notopfer Berlin (Berlin emergency aid tax)

(hereinafter referred to as "Federal Republic tax")

(2) The present Agreement shall also apply to any other taxes of a substantially similar character imposed in India or the Federal Republic of Germany subsequent to the date of signature of the present Agreement

*Article II* —(1) In the present Agreement, unless the context otherwise requires

(a) the term "Federal Republic" means the Federal Republic of Germany, "the territory of the Federal Republic of Germany" means the territory in which the Basic Law for the Federal Republic of Germany is in force,

(b) the terms "India" and the "territory of India" shall have the meanings assigned to them in Article 1 of the Constitution of India,

(c) the terms "one of the territories" and "the other territory" mean the Federal Republic or India as the context requires,

\* S 49A of the 1922 Act corresponds to s 90 of the 1961 Act Under s 297(2)(k) of the 1961 Act, this Notification is deemed to have been issued under s 90 of that Act and continues in force accordingly

- (d) the term "person" includes natural persons, companies and all other entities which are treated as taxable units under the tax laws in force in the respective territories; Div 4  
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- (e) the term "company" means any entity which is treated as a body corporate or as a company for tax purposes,
- (f) the term "tax" means Federal Republic tax or Indian tax, as the context requires,
- (g) the terms "resident of the Federal Republic" and "resident of India" mean, respectively, a person who is resident in the Federal Republic for the purposes of Federal Republic tax not resident in India for the purposes of Indian tax, and a person who is resident in India for the purposes of Indian tax and not resident in the Federal Republic for the purposes of Federal Republic tax. A company shall be regarded as resident in the Federal Republic, if it is incorporated in the Federal Republic or its business is wholly managed and controlled in the Federal Republic, a company shall be regarded as resident in India, if it is incorporated in India or its business is wholly managed and controlled in India,
- (h) the terms "Federal Republic enterprise" and "Indian enterprise" mean, respectively, an industrial or commercial enterprise or undertaking carried on by a resident of the Federal Republic, and an industrial or commercial enterprise or undertaking carried on by a resident of India, and the terms "enterprise of one of the territories" and "enterprise of the other territory" mean a Federal Republic enterprise or an Indian enterprise, as the context requires,
- (i) the term "permanent establishment" means a fixed place of business in which the business of the enterprise is wholly or partly carried on,
- (aa) the term "fixed place of business" shall include a branch, an office, a factory, a workshop, a warehouse, a mine, quarry or other place of extraction of natural resources, and a permanent sales exhibition,
- (bb) an enterprise of one of the territories shall be deemed to have a fixed place of business in the other territory if it carries on in that other territory a construction, installation or assembly project or the like,
- (cc) the use of mere storage facilities or the maintenance of a place of business exclusively for the purchase of goods or merchandise and not for any processing of such goods or merchandise in the territory of purchase, shall not constitute a permanent establishment,
- (dd) a person acting in one of the territories for or on behalf of an enterprise of the other territory shall be deemed to be a permanent establishment in the first mentioned territory, but only if
- 1 he has and habitually exercises in the first mentioned territory a general authority to negotiate and enter into contracts for or on behalf of the enterprise, unless the activities of the person are limited exclusively to the purchase of goods or merchandise for the enterprise, or
  - 2 he habitually maintains in the first mentioned territory a stock of goods or merchandise belonging to the enterprise

from which the person regularly delivers goods or merchandise for or on behalf of the enterprise, or

- 3 he habitually secures orders in the first mentioned territory, exclusively or almost exclusively, for the enterprise itself, or for the enterprise and other enterprises which are controlled by it or have a controlling interest in it,
- (ee) a broker of a genuinely independent status who merely acts as an intermediary between an enterprise of one of the territories and a prospective customer in the other territory shall not be deemed to be permanent establishment in that other territory where such activities do not involve securing of orders within the meaning of sub paragraph (dd) 3 above,
- (ff) the fact that a company, which is a resident of one of the territories, has a subsidiary company which either is a resident of the other territory or carries on a trade or business in that other territory (whether through a permanent establishment or otherwise) shall not, of itself, constitute that subsidiary company a permanent establishment of its parent company,
- (j) the term "pension" means periodic payments made in consideration of services rendered or by way of compensation for injuries received,
- (k) the term "annuity" means a stated sum payable periodically at stated times during life or during a specified or ascertainable period of time,
- (l) the term "competent authority" means in the case of India the Central Government in the Ministry of Finance, Department of Revenue and in the case of the Federal Republic of Germany, the Federal Minister of Finance

(2) In the application of the provisions of this Agreement in one of the territories any term not otherwise defined in this Agreement shall, unless the context otherwise requires, have the meaning which it has under the laws in force in that territory relating to the taxes which are the subject of this Agreement

*Article III* —(1) Subject to the provisions of paragraph (3) below, tax shall not be levied in one of the territories on the industrial or commercial profits of an enterprise of the other territory unless profits are derived in the first-mentioned territory through a permanent establishment of the said enterprise situated in the first-mentioned territory. If profits are so derived, tax may be levied in the first-mentioned territory on the profits attributable to the said permanent establishment

(2) There shall be attributed to the permanent establishment of an enterprise of one of the territories situated in the other territory, the industrial or commercial profits which it might be expected to derive in that other territory if it were an independent enterprise engaged in the same or similar activities under the same or similar conditions and dealing at arm's length with the enterprise of which it is the permanent establishment. In any case, where the correct amount of profits attributable to a permanent establishment is incapable of determination, or the ascertainment thereof presents exceptional difficulties the profits attributable to the establishment may be estimated on a reasonable basis

(3) For the purposes of this Agreement the term "industrial or commercial profits" shall not include income in the form of rents, royalties, interests,

dividends, management charges, remuneration for labour or personal services or income from the operation of ships or aircraft but shall include rents or royalties in respect of cinematographic films

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*Article IV* —Where a resident of one of the territories carries on business with a resident of the other territory and it appears to the taxation authorities of the first-mentioned territory that owing to the close connection between such persons the course of business is so arranged that the business done produces to the resident of the first-mentioned territory either no profits or less than ordinary profits which might be expected to arise in that business, tax shall be leviable in the former territory on such profits as may reasonably be deemed to have arisen therefrom

*Article V* —(1) Income derived from the operation of aircraft by an enterprise of one of the territories shall not be taxed in the other territory, unless the aircraft is operated wholly or mainly between places within that other territory

(2) Paragraph (1) shall likewise apply in respect of participations in pools of any kind by enterprises engaged in air transport

*Article VI* —(1) Where an enterprise of one of the territories derives profits through shipping operations the tax leviable on such profits in the other territory shall be reduced by an amount equal to fifty per cent thereof

(2) Paragraph (1) shall not apply to profits arising as a result of coastal traffic, the term "coastal traffic" means traffic which originates and terminates in the territorial waters of the same territory

(3) This article shall not, in the case of India, affect the provisions of sections 44A and 44B of the Indian Income tax Act, 1922, relating to the assessment of profits from occasional shipping or tramp steamers. When an adjustment is to be made under section 44C of the Indian Income-tax Act, 1922, in the case of occasional shipping or tramp steamers, the provisions of paragraph (1) will apply

*Article VII* —Dividends paid by a company which is a resident of one of the territories to a resident of the other territory may be taxed in both territories

*Article VIII* —Interest on bonds, securities, notes, debentures or any other form of indebtedness, derived by a resident of one of the territories from sources in the other territory may be taxed in both territories

*Article IX* —Income from immovable property may be taxed in the territory in which the property is situated. For this purpose any rent or royalty or other income derived from the operation of a mine, quarry or any other extraction of natural resources shall be regarded as income from immovable property

*Article X* —Capital gains arising from the sale, exchange or transfer of a capital asset, whether movable or immovable, may be taxed in the territory in which the capital asset is situated at the time of such sale, exchange or transfer. For this purpose, the situs of the shares of a company shall be deemed to be in the territory where the company is incorporated

*Article XI* —(1) Remuneration, including pensions and annuities, paid out of public funds of India in respect of present or past services shall not be taxed in the Federal Republic unless the payment is made to a citizen of the Federal Republic

(2) Remuneration, including pensions and annuities, paid out of public funds of the Federal Republic or its Laender or political sub divisions



thereof in respect of present or past services shall not be taxed in India unless the payment is made to a citizen of India.

(3) The provisions of paragraphs (1) and (2) of this article shall not apply to payments in respect of services in connection with any trade or business carried on by either of the Contracting Parties or political subdivision thereof for purposes of profit.

(4) The provisions of paragraphs (1) and (2) of this article shall also apply to remuneration, including pensions and annuities, paid by the Federal Bank, the Federal Railways and the Postal Administration of the Federal Republic and the corresponding organisations of India.

*Article XII*—(1) Profits or remuneration from professional services (including services as a director) or from services as an employee derived by an individual who is a resident of one of the territories may be taxed in the other territory only if such services are rendered in that other territory.

(2) An individual who is a resident of India shall not be taxed in the Federal Republic on profits or remuneration referred to in paragraph (1) if

- (a) he is temporarily present in the Federal Republic for a period or periods not exceeding in the aggregate 183 days during a taxable year,
- (b) the services are rendered for or on behalf of a resident of India,
- (c) the profits or remuneration are subject to Indian tax, and
- (d) the profits or remuneration are not deducted in computing the profits of an enterprise chargeable to Federal Republic tax.

(3) An individual who is a resident of the Federal Republic shall not be taxed in India on the profits or remuneration referred to in paragraph (1) if

- (a) he is temporarily present in India for a period or periods not exceeding in the aggregate 183 days during a relevant "previous year",
- (b) the services are rendered for or on behalf of a resident of the Federal Republic,
- (c) the profits or remuneration are subject to Federal Republic tax, and
- (d) the profits or remuneration are not deducted in computing the profits of an enterprise chargeable to Indian tax.

(4) Where an individual permanently or predominantly renders services on ships or aircraft operated by an enterprise of one of the territories such services shall be deemed to be rendered in that territory.

*Article XIII*—Any pension or annuity (other than pension or annuities to which Article XI applies) derived by a resident of one of the territories from sources in the other territory may be taxed in that other territory.

*Article XIV*—A professor or teacher from one of the territories, who receives remuneration for teaching during a period of temporary residence not exceeding two years, at a university, college, school or other educational institution in the other territory, shall not be taxed in that other territory in respect of that remuneration.

*Article XV*—(1) An individual from one of the territories who is temporarily present in the other territory solely

- (a) as a student at a recognised university, college or school in such other territory, Div 4  
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- (b) as a business apprentice (including in the Federal Republic a Volontar or a Praktikant), or
- (c) as the recipient of a grant, allowance or award for the primary purpose of study or research from a religious, charitable, scientific or educational organisation

shall not be taxed in the other territory in respect of remittances from abroad for the purposes of his maintenance, education or training, in respect of a scholarship, and in respect of any amount representing remuneration for an employment in that other territory

(2) An individual from one of the territories who is temporarily present in the other territory for a period not exceeding one year, as an employee of, or under contract with, an enterprise of the former territory or an organisation referred to in paragraph (1) sub-paragraph (c) above, solely to acquire technical, professional or business experience from a person other than such enterprise or organisation, shall not be taxed in that other territory on remuneration for such period, unless the amount thereof exceeds 15,000 DM or its equivalent in Indian currency

(3) An individual from one of the territories temporarily present in the other territory under arrangements with the Government of that other territory solely for the purpose of training, research or study shall not be taxed in that other territory on remuneration received in respect of such training, research or study, unless the amount thereof exceeds 25,000 DM or its equivalent in Indian currency

*Article XVI*—(1) The laws in force in either of the territories will continue to govern the assessment and taxation of income in the respective territories except where express provision to the contrary is made in this Agreement

(2) Subject to the provisions of paragraph (1) above, tax shall be determined in the case of a resident of India as follows

Where there is included in an assessment made in India any income from sources in the Federal Republic on which, in accordance with the present Agreement, tax is levied in the Federal Republic, there shall be allowed as a credit against the tax payable in India, a sum equal to the Federal Republic tax actually levied or the Indian tax, whichever is lower

(3) Subject to the provisions of paragraph (1) above, tax shall be determined in the case of a resident of the Federal Republic as follows

- (a) Unless the provisions of sub paragraph (b) below apply, there shall be excluded from the basis upon which Federal Republic tax is imposed, any item of income from sources within India which, according to this Agreement, may be taxed in India. The Federal Republic, however, retains the right to take into account in the determination of its rate of tax the items of income so excluded. However, the foregoing provisions shall in the case of income from dividends apply only to such dividends as are paid to a company being a resident of the Federal Republic by a company being a resident of India more than 25 per cent of the voting shares of which are owned by the first mentioned company

- (b) There shall be allowed as indicated below a credit against the Federal Republic tax payable in respect of the following items of income from sources within India
- (aa) on dividends not dealt with in sub-paragraph (a) above, the Indian super-tax including surcharge levied thereon, but in any case at least the amount of 50 per cent of the Federal Republic tax,
  - (bb) on interest within the meaning of Article VIII the Indian tax levied thereon, but in any case at least an amount of 50 per cent of the Federal Republic tax,
  - (cc) on profits through shipping operations, on royalties, and on remuneration within the meaning of Article XI, the Indian tax levied thereon

*Article XVII*—The competent authorities shall exchange such information (being information which is at their disposal under their respective taxation laws in the normal course of administration) as is necessary for carrying out the provisions of the present Agreement. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than those concerned with the assessment and collection of the taxes which are the subject of the present Agreement. No information as aforesaid shall be exchanged by the competent authority of one of the territories which would disclose any trade, business, industrial or professional secret or any trade process to the authority of the other territory.

*Article XVIII*—Where a resident of one of the territories shows proof that the action of the taxation authorities of the other territory resulted or will result in double taxation contrary to the provisions of the present Agreement, he shall be entitled to present his case to the competent authority of the territory of which he is a resident. Should his claim be deemed worthy of consideration, the competent authority to which the claim is made shall endeavour to come to an agreement with the competent authority of the other territory with a view to avoiding double taxation.

*Article XIX*—(1) This Agreement shall apply to Land Berlin provided that the Government of the Federal Republic of Germany has not delivered a contrary declaration to the Government of India within three months from the date of entry into force of the Agreement.

(2) Upon the application of this Agreement to Land Berlin, references in the Agreement to the Federal Republic shall be deemed also to be references to Land Berlin.

*Article XX*—(1) The present Agreement shall be ratified.

(2) The instruments of ratification shall be exchanged at Bonn as soon as possible.

(3) This Agreement shall come into force after the expiration of a month following the date on which the instruments of ratification are exchanged and shall thereupon have effect—

- (a) in respect of Indian tax in relation to the income for any "previous year" relevant to any year of assessment beginning on or after the 1st April, 1958, and
- (b) in respect of the Federal Republic tax, for taxes which are levied for the calendar year 1957 and for subsequent calendar years.

*Article XXI*—This Agreement shall continue in effect indefinitely but either of the Contracting Parties may on or before the 30th day of June in

any calendar year after 1960 give to the other Contracting Party notice of termination, and in such event this Agreement shall cease to be effective—

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- (a) in respect of Indian tax, in relation to the income which arises on or after the 1st January following the year in which the notice of termination is given, and
- (b) in respect of Federal Republic tax, for taxes which are levied for the calendar years following the year in which the notice of termination is given

In witness whereof the undersigned duly authorised thereto have signed this Agreement and have affixed thereto their seals

Done at New Delhi on 18th March, 1959, in duplicate, in the English, German and Hindi languages, all the three texts being equally authentic, except in the case of doubt when the English text shall prevail

Dr B Gopala Reddy  
Minister for Revenue and Civil  
Expenditure, Government of  
India

Dr W Melchers  
Ambassador of the Federal  
Republic of Germany in  
India

New Delhi, the 18th day of March, 1959

Dear Sir,

The Agreement between the Government of India and the Government of the Federal Republic of Germany for the Avoidance of Double Taxation of Income being signed today, I have the honour, on behalf of the Government of India, to inform you that the two Contracting Parties have agreed that the provisions referred to below shall be applied as follows

*1 Article II(1)(i)(dd)*

The term "person" as used in the provision referred to includes an employee as well as a person who, though being of independent status, performs activities similar to those of an employee

*2 Article II(1)(i)(dd)3*

The term "almost exclusively" shall be understood to mean that the person's activities for or on behalf of enterprises other than those referred to therein are of such minor importance in relation to his activities for or on behalf of the enterprises mentioned therein that for all practical purposes such person may be regarded as working solely for or on behalf of the latter enterprises

Enterprises controlled by the same person shall be treated as one enterprise

I should be grateful if you would confirm your agreement with the above definitions and that, in such case, this note and your reply thereto should be deemed to be part of the Agreement

Please accept, Mr Ambassador, the assurance of my high consideration

Dr B Gopala Reddy

To

His Excellency Dr W Melchers,  
Ambassador of the Federal Republic of Germany in India,  
New Delhi

New Delhi, the 18th March, 1959

Mr Minister,

With reference to the Agreement, signed today, between the Government of the Federal Republic and the Government of India for the Avoidance of Double Taxation of Income, you on behalf of the Government of India informed me of the following

"The Agreement between the Government of India and the Government of the Federal Republic of Germany for the Avoidance of Double Taxation of Income being signed today, I have the honour, on behalf of the Government of India, to inform you that the two Contracting Parties have agreed that the provisions referred to below shall be applied as follows

*1 Article II(1)(1)(dd)*

The term "person" as used in the provision referred to includes an employee as well as a person who, though being of independent status, performs activities similar to those of an employee

*2 Article II(1)(1)(dd)3*

The term "almost exclusively" shall be understood to mean that the person's activities for or on behalf of enterprises other than those referred to therein are of such minor importance in relation to his activities for or on behalf of the enterprises mentioned therein that for all practical purposes such person may be regarded as working solely for or on behalf of the latter enterprises

Enterprises controlled by the same person shall be treated as one enterprise

I should be grateful if you would confirm your agreement with the above definitions and that, in such case, this note and your reply thereto should be deemed to be part of the Agreement "

I have the honour to inform you that this proposal meets with the approval of the Government of the Federal Republic of Germany. Your note of today's date and my reply thereto shall therefore be part of the Agreement

Accept, Mr Minister, the assurance of my high consideration

Dr W Melchers

To

Dr B Gopala Reddy,  
Minister for Revenue and Civil Expenditure,  
New Delhi

**AGREEMENT FOR AVOIDANCE OF DOUBLE TAXATION BETWEEN INDIA AND FINLAND\***

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*(Notification No G S R 41, dated the 29th December, 1961)*

WHEREAS the annexed Agreement for the avoidance of double taxation of income between the Government of India and the Government of the Republic of Finland has been ratified and the instruments of ratification exchanged, as required by Article XXI of the said Agreement,

Now, therefore, in exercise of the powers conferred by section 49A of the Indian Income-tax Act, 1922 (XI of 1922), the Central Government hereby directs that all provisions of the said Agreement shall be given effect to in the Union of India

**Agreement between the Government of India and the Government  
of the Republic of Finland for the avoidance of double taxation  
of income**

Whereas the Government of India and the Government of the Republic of Finland desire to conclude an agreement for the avoidance of double taxation of income,

Now, therefore, it is hereby agreed as follows

*Article I* —(1) The taxes which are the subject of the present Agreement are

(a) in India

the income-tax,

the super-tax,

the surcharge,

imposed under the Indian Income-tax Act, 1922 (XI of 1922) (hereinafter referred to as "Indian tax")

(b) in Finland

the State income-tax,

the communal tax,

the church tax,

(hereinafter referred to as "Finnish tax")

(2) The present Agreement shall also apply to any other taxes of a substantially similar character imposed in India or Finland subsequent to the date of signature of the present Agreement

*Article II* —(1) In the present Agreement, unless the context otherwise requires

(a) the terms "one of the territories" and "the other territory" mean India or Finland as the context requires,

(b) the term "person" includes individuals, companies and all other entities which are treated as taxable units under the tax laws in force in the respective territories,

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\* S 49A of the 1922 Act corresponds to s 90 of the 1961 Act Under s 297(2)(k) of the 1961 Act, this Notification is deemed to have been issued under s 90 of that Act and continues in force accordingly

- (c) the term "company" means any entity which is treated as a body corporate or as a company for tax purposes,
- (d) the term "tax" means Indian tax or Finnish tax, as the context requires,
- (e) the terms "resident of India" and "resident of Finland" mean, respectively, a person who is resident in India for the purposes of Indian tax and not resident in Finland for the purposes of Finnish tax, and a person who is resident in Finland for the purposes of Finnish tax and not resident in India for the purposes of Indian tax

A company shall be regarded as resident in India if it is incorporated in India or its business is wholly managed and controlled in India, a company shall be regarded as resident in Finland if it is incorporated in Finland or its business is wholly managed and controlled in Finland,

- (f) the terms "Indian enterprise" and "Finnish enterprise" mean respectively, an industrial or commercial enterprise or undertaking carried on by a resident of India and an industrial or commercial enterprise or undertaking carried on by a resident of Finland, and the terms "enterprise of one of the territories" and "enterprise of the other territory" mean an Indian enterprise or a Finnish enterprise, as the context requires,
- (g) the term "permanent establishment" means a fixed place of business in which the business of the enterprise is wholly or partly carried on,
  - (aa) the term "fixed place of business" shall include a place of management, a branch, an office, a factory, a workshop, a warehouse, a mine, quarry or other place of extraction of natural resources,
  - (bb) an enterprise of one of the territories shall be deemed to have a fixed place of business in the other territory if it carries on in that other territory a construction, installation or assembly project or the like,
  - (cc) the use of mere storage facilities or the maintenance of a place of business exclusively for the purchase of goods or merchandise and not for any processing of such goods or merchandise in the territory of purchase, shall not constitute a permanent establishment,
  - (dd) a person acting in one of the territories for or on behalf of an enterprise of the other territory shall be deemed to be a permanent establishment of that enterprise in the first-mentioned territory, but only if
    - 1 he has and habitually exercises in the first-mentioned territory a general authority to negotiate and enter into contracts for or on behalf of the enterprise, unless the activities of the person are limited exclusively to the purchase of goods or merchandise for the enterprise, or
    - 2 he habitually maintains in the first-mentioned territory a stock of goods or merchandise belonging to the enterprise from which the person regularly delivers goods or merchandise for or on behalf of the enterprise, or
    - 3 he habitually secures orders in the first-mentioned territory wholly or almost wholly for the enterprise itself or for the

enterprise and other enterprises which are controlled by it or have a controlling interest in it

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a person from one of the territories who is present in the other territory for not more than three months in the income year or the previous year, as the case may be, for the purpose of securing orders shall not be deemed to be habitually securing orders within the meaning of this subparagraph,

(ee) a bona fide broker of a genuinely independent status who merely acts as an intermediary between an enterprise of one of the territories and a prospective customer in the other territory shall not be deemed to be a permanent establishment of the enterprise in the last mentioned territory,

(ff) the fact that a company, which is a resident of one of the territories, has a subsidiary company which either is a resident of the other territory or carries on a trade or business in that other territory (whether through a permanent establishment or otherwise) shall not of itself constitute that subsidiary company a permanent establishment of its parent company,

(h) the term "competent authority" means, in the case of India, the Central Government in the Ministry of Finance, Department of Revenue, and, in the case of Finland, the Ministry of Finance

(2) In the application of the provisions of this Agreement in one of the territories any term not otherwise defined in this Agreement shall, unless the context otherwise requires, have the meaning which it has under the laws in force in that territory relating to the taxes which are the subject of this Agreement

*Article III* —(1) Tax shall not be levied in one of the territories on the industrial or commercial profits of an enterprise of the other territory unless the profits are derived in the first-mentioned territory through a permanent establishment of the said enterprise situated in the first-mentioned territory. If profits are so derived, tax may be levied in the first mentioned territory on the profits attributable to the said permanent establishment

(2) There shall be attributed to the permanent establishment of an enterprise of one of the territories situated in the other territory the industrial or commercial profits which it might be expected to derive in that other territory if it were an independent enterprise engaged in the same or similar activities under the same or similar conditions and dealing at arm's length with the enterprise of which it is a permanent establishment

In any case, where the correct amount of profits attributable to a permanent establishment is incapable of determination or the ascertainment thereof presents exceptional difficulties, the profits attributable to the establishment may be estimated on a reasonable basis

In determining the industrial or commercial profits of a permanent establishment, there shall be allowed as deductions all expenses, wherever incurred, reasonably allocable to such permanent establishment, including executive and general administrative expenses so allocable

(3) The term "industrial or commercial profits" shall not include income in the form of rents, royalties, including rents or royalties for cinematographic films, fees for technical services, interest, dividends, capital gains, management charges, remuneration for labour or personal services or income from the operation of ships or aircraft



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*Article IV* —Where an enterprise of one of the territories carries on business with an enterprise of the other territory, and it appears to the taxation authorities of the first mentioned territory that owing to the close connection between such enterprises conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises dealing at arm's length with one another, then any profits which would but for those conditions have accrued to one of the enterprises but by reason of those conditions have not so accrued may be included in the profits of that enterprise and taxed accordingly. In consequence the necessary rectifications shall be made concerning the income of the other enterprise.

*Article V* —(1) Income derived from the operation of aircraft by an enterprise of one of the territories shall not be taxed in the other territory unless the aircraft is operated wholly or mainly between places within that other territory.

(2) Paragraph (1) shall likewise apply in respect of participations in pools of any kind by enterprises engaged in air transport.

*Article VI* —(1) When a resident of India, operating ships, derives profits from Finland through such operations carried on in Finland, such profits shall be subject to tax in India as well as in Finland, but the tax so charged in Finland shall be reduced by an amount equal to fifty per cent of the tax so charged, and the reduced amount of Finnish tax payable on the profits shall be allowed as a credit against any Indian tax charged in respect of such income.

(2) When a resident of Finland, operating ships, derives profits from India through such operations carried on in India, such profits shall be subject to tax in Finland as well as in India, but the tax so charged in India shall be reduced by an amount equal to fifty per cent of the tax so charged, and the reduced amount of Indian tax payable on the profits shall be allowed as a credit against any Finnish tax charged on income accrued to or received by the resident of Finland during the year in which such reduced Indian tax was paid.

(3) Paragraphs (1) and (2) shall not apply to profits arising as a result of coastal traffic.

(4) This article shall not, in the case of India, affect the provisions of sections 44A and 44B of the Indian Income-tax Act, 1922, relating to the assessment of profits from occasional shipping or tramp steamers. When an adjustment is to be made under section 44C of the Indian Income tax Act, 1922, in the case of occasional shipping or tramp steamers, the provisions of paragraph (2) will apply.

*Article VII* —(1) Royalties derived by a resident of one of the territories from sources in the other territory may be taxed only in that other territory.

(2) In this article, the term "royalty" means any royalty or other like amount received as consideration for the right to use copyrights, artistic or scientific works, cinematographic films, patents, models, designs, plans, secret processes or formulae, trade-marks and other like property or rights, but does not include any royalty or other like amount in respect of the operation of mines, quarries or other natural resources.

*Article VIII* —Amounts paid by an enterprise of one of the territories for technical services furnished by an enterprise of the other territory shall not be subject to tax by the first-mentioned territory except in so far as

such amounts are attributable to activities actually performed in the first-mentioned territory. In computing the income so subject to tax, there shall be allowed as deductions the expenses incurred in the first-mentioned territory in connection with the activities performed in that territory.

*Article IX*—Dividends paid by a company which is a resident of one of the territories to a resident of the other territory may be taxed only in the first-mentioned territory.

*Article X*—Interest on bonds, securities, notes, debentures or any other form of indebtedness, derived by a resident of one of the territories from sources in the other territory may be taxed only in that other territory.

*Article XI*—Income from immovable property may be taxed only in the territory in which the property is situated. For this purpose any rent or royalty or other income derived from the operation of a mine, quarry or any other extraction of natural resources shall be regarded as income from immovable property.

*Article XII*—Capital gains derived from the sale, exchange or transfer of a capital asset, whether movable or immovable, may be taxed only in the territory in which the capital asset is situated at the time of such sale, exchange or transfer. For this purpose, the situs of the shares of a company shall be deemed to be in the territory where the company is incorporated.

*Article XIII*—(1) Remuneration other than pensions and annuities paid in India for services rendered therein out of public funds of Finland shall not be taxed in India unless the payment is made to a national of India.

(2) Remuneration other than pensions and annuities paid in Finland for services rendered therein out of public funds of India shall not be taxed in Finland unless the payment is made to a national of Finland.

(3) The provisions of paragraphs (1) and (2) of this article shall not apply to payments in respect of services in connection with any trade or business carried on by either of the Contracting Parties or political subdivisions thereof for purposes of profit.

(4) The provisions of paragraphs (1) and (2) of this article shall also apply to remuneration other than pensions and annuities, paid by the Reserve Bank of India, the Public Railway Authorities and the Postal Administration of India and by Suomen Pankki, Valtion Rautatie, Posti-ja Lennätinhallitus and Kansaneläkelaitos (Bank of Finland, State Railways, Post and Telegraph Administration and National Pension Administration).

*Article XIV*—Any pension or annuity derived by a resident of one of the territories from sources in the other territory may be taxed only in that other territory.

In this article the term "pension" means a periodic payment made in consideration of services rendered or by way of compensation for injuries received and the term "annuity" means a stated sum payable periodically at stated times, during life or during a specified or ascertainable period of time, under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

*Article XV*—(1) Profits or remuneration for professional services or for services as an employee (including services as a director) performed

in one of the territories by an individual who is a resident of the other territory may be taxed in the territory in which such services are performed

(2) Notwithstanding anything contained in paragraph (1), an individual who is a resident of India shall not be taxed in Finland on remuneration for personal services, if

- (a) he is temporarily present in Finland for a period or periods not exceeding in the aggregate 183 days during the relevant income year, and
- (b) the services are rendered for or on behalf of a resident of India, or for or on behalf of a permanent establishment in India, of a Finnish enterprise, and
- (c) the remuneration as such is not deducted in computing the profits of an enterprise subject to Finnish tax

(3) Notwithstanding anything contained in paragraph (1), an individual who is a resident of Finland shall not be taxed in India on remuneration for personal services, if

- (a) he is temporarily present in India for a period or periods not exceeding in the aggregate 183 days during the relevant "previous year", and
- (b) the services are rendered for or on behalf of a resident of Finland or for or on behalf of a permanent establishment in Finland of an Indian enterprise, and
- (c) the remuneration as such is not deducted in computing the profits of an enterprise chargeable to Indian tax

(4) Where an individual permanently or predominantly performs services on ships or aircraft operated by an enterprise of one of the territories such services shall be deemed to be performed in that territory

*Article XVI* —A professor or teacher from one of the territories, who receives remuneration for teaching, during a period of temporary residence not exceeding two years, at a university, college, school or other educational institution in the other territory, shall not be taxed in that other territory in respect of that remuneration

*Article XVII* —An individual from one of the territories who is temporarily present in the other territory solely

- (a) as a student at a university, college or school in that other territory,
- (b) as a business or trade apprentice, or
- (c) as the recipient of a grant, allowance or award from a religious, charitable, scientific or educational organisation for the primary purposes of study or research,

shall not be taxed in that other territory in respect of remittances from abroad for the purposes of his maintenance, education or training, or in respect of a scholarship

*Article XVIII* —(1) The laws in force in either of the territories will continue to govern the assessment and taxation of income in the respective territories except where express provision to the contrary is made in this Agreement

(2) Subject to the provision of Article VI, income from sources within India which under the laws of India and in accordance with this Agreement is subject to tax in India either directly or by deduction shall not be subject to Finnish tax Div 4  
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(3) Subject to the provision of Article VI, income from sources within Finland which under the laws of Finland and in accordance with this Agreement is subject to tax in Finland either directly or by deduction shall not be subject to Indian tax

(4) The rate of Indian tax to be imposed on residents of India, as well as the rate of Finnish tax to be imposed on residents of Finland may be calculated taking also into account the income of the person subject to taxation, which, according to this Agreement, is subject to tax in the other territory

*Article XIX*—The competent authorities shall exchange such information (being information which is at their disposal under their respective taxation laws in the normal course of administration) as is necessary for carrying out the provisions of the present Agreement. Any information so exchanged shall be treated secret and shall not be disclosed to any persons other than those concerned with the assessment and collection of the taxes which are the subject of the present Agreement. No information as aforesaid shall be exchanged by the competent authority of one of the territories which would disclose any trade, business, industrial or professional secret or any trade process to the authority of the other territory

*Article XX*—Where a resident of one of the territories shows proof that the action of the taxation authorities of the other territory has resulted or will result in double taxation contrary to the provisions of the present Agreement, he shall be entitled to present his case to the competent authority of the territory of which he is a resident. Should the competent authority be satisfied that the claim ought to be pursued further, the competent authority shall endeavour to come to an agreement with the competent authority of the other territory with a view to avoiding double taxation

*Article XXI*—(1) The present Agreement shall be ratified by the Contracting Parties according to their own internal legislation

(2) The instruments of ratification shall be exchanged at Helsinki as soon as possible

(3) Upon exchange of the instruments of ratification, the present Agreement shall have effect—

(a) in India, in respect of taxes for assessment years beginning on or after the 1st April of the year in which the exchange of instruments of ratification takes place,

(b) in Finland, in respect of taxes for income years beginning on or after the 1st January of the calendar year preceding that in which the exchange of instruments of ratification takes place

*Article XXII*—This Agreement shall continue in effect indefinitely but either of the Contracting Parties may on or before the 30th of June in any calendar year following the calendar year in which the exchange of instruments of ratification takes place give to the other Contracting Party notice of termination and in such event this Agreement shall cease to have effect—

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- (a) in India, in respect of taxes for the assessment years beginning on or after the 1st April of the second calendar year following that in which the notice is given,
- (b) in Finland, in respect of taxes for income years beginning on or after the 1st January of the calendar year next following that in which the notice is given

In witness whereof the undersigned duly authorised thereto have signed this Agreement

Done in duplicate at New Delhi on the 23rd June, 1961, in the English language

For the Government of the  
Republic of Finland,

Kai Somerto,  
Charge d'Affaires a.i. of Finland

For the Government of India,

Smt Tarkeshwari Sinha,  
Deputy Minister of Finance

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# I

## RULES AND ORDERS RELATING TO APPELLATE TRIBUNAL

### THE INCOME-TAX (APPELLATE TRIBUNAL) RULES, 1963

Rules to regulate the procedure of the Appellate Tribunal and  
the procedure of the Benches of the Tribunal

In exercise of the powers conferred by sub section (5) of section 255 of the Income-tax Act, 1961 (XLIII of 1961), the Appellate Tribunal is pleased to make the following rules —

**1 Short title and commencement** —(1) These rules may be called the Income-tax (Appellate Tribunal) Rules, 1963

(2) They shall come into force at once

**2 Definitions** —In these rules, unless there is anything repugnant in the subject or context,—

(i) “Act” means the Income-tax Act, 1961 (XLIII of 1961) ,

(ii) “authorised representative” means—

(a) in relation to an assessee, a person duly authorised by the assessee under section 288 to attend before the Tribunal, and

(b) in relation to an income-tax authority who is a party to any proceeding before the Tribunal, a person duly appointed by the Central Government by notification in the Official Gazette as authorised representative to appear, plead and act for such authority in any such proceeding and any other person acting on behalf of the person so appointed ,

(iii) “Bench” means a Bench of the Tribunal constituted under sub section (1) of section 255, and includes the President or any other member sitting singly under the provisions of sub section (3) of the said section and a special Bench constituted under the same provision ,

(iv) “member” means a member of the Tribunal ,

(v) “prescribed form” means a form prescribed in the rules made by the Central Board of Revenue under section 295 ,

(vi) “President” means the President of the Tribunal ,

(vii) “Registrar” means the person who is for the time being discharging the functions of the Registrar of the Tribunal ,

(viii) “section” means a section of the Act ,

(ix) “Tribunal” means the Appellate Tribunal constituted by the Central Government under section 252, and includes, where the context so requires, a Bench exercising and discharging the powers and functions of the Tribunal

**3 Sittings of Bench** —A Bench shall hold its sittings at its headquarters or such other place as it may consider convenient

**4 Powers of Bench** —(1) A Bench shall hear and determine such appeals and applications made under the Act as the President may by general or special order direct

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(2) Where at a headquarter other than Bombay there are two or more Benches of the Tribunal, the seniormost member may transfer an appeal or an application from any one such Bench to any other

**5 Language of the Tribunal**—The language of the Tribunal shall be English

**6 Procedure for filing appeals**—(1) A memorandum of appeal to the Tribunal shall be presented by the appellant in person or by an agent to the Registrar at the headquarters of the Tribunal, at Bombay, or to an officer authorised in this behalf by the Registrar, or sent by registered post addressed to the Registrar or to such officer

(2) A memorandum of appeal sent by post under sub-rule (1) shall be deemed to have been presented to the Registrar or to the officer authorised by the Registrar, on the day on which it is received in the office of the Tribunal at Bombay, or, as the case may be, in the office of such officer

**7 Date of presentation of appeals**—The Registrar, or, as the case may be, the authorised officer, shall endorse on every memorandum of appeal the date on which it is presented or deemed to have been presented under rule 6 and shall sign the endorsement

**8 Contents of memorandum of appeal**—Every memorandum of appeal shall be written in English and shall set forth, concisely and under distinct heads, the grounds of appeal without any argument or narrative, and such grounds shall be numbered consecutively

**9 What to accompany memorandum of appeal**—(1) Every memorandum of appeal shall be in triplicate and shall be accompanied by two copies (at least one of which shall be a certified copy) of the order appealed against and two copies of the order of the Income-tax Officer

(2) The Tribunal may in its discretion accept a memorandum of appeal which is not accompanied by all or any of the documents referred to in sub-rule (1)

**10 Filing of affidavits**—Where a fact which cannot be borne out by, or is contrary to, the record is alleged, it shall be stated clearly and concisely and supported by a duly sworn affidavit

**11 Grounds which may be taken in appeal**—The appellant shall not, except by leave of the Tribunal, urge or be heard in support of any ground not set forth in the memorandum of appeal, but the Tribunal, in deciding the appeal, shall not be confined to the grounds set forth in the memorandum of appeal or taken by leave of the Tribunal under this rule

Provided that the Tribunal shall not rest its decision on any other ground unless the party who may be affected thereby has had a sufficient opportunity of being heard on that ground

**12 Rejection or amendment of memorandum of appeal**—The Tribunal may reject a memorandum of appeal, if it is not in the prescribed form or return it for being amended within such time as it may allow. On representation after such amendment, the memorandum shall be signed and dated by the officer competent to make an endorsement under rule 7

**13 Who may be joined as respondent in an appeal by assessee**—In an appeal by an assessee under sub-section (1) of section 253, the Income tax Officer concerned shall be made a respondent to the appeal

**14 Who may be joined as respondent in an appeal by the Income-tax Officer**—In an appeal by the Income-tax Officer under sub-section (2) of

section 253, the appellant before the Appellate Assistant Commissioner shall be made a respondent to the appeal Div 4  
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**15 What to accompany memorandum of appeal under section 253(2)** —In an appeal under sub-section (2) of section 253, a certified copy of the order of the Commissioner directing that an appeal be preferred, shall be appended to the memorandum of appeal

**16 Authorising a representative to appear** —In any appeal by an assessee, where the memorandum of appeal is signed by his authorised representative, the assessee shall append to the memorandum a document authorising the representative to appear for him and if the representative is a relative of the assessee, the document shall state what his relationship is with the assessee, or if he is a person regularly employed by the assessee, the document shall state the capacity in which he is at the time employed

**17 Authorisation to be filed** —An authorised representative appearing for the assessee at the hearing of an appeal shall, unless the document referred to in rule 16 has been appended, file such a document before the commencement of the hearing

**18 Preparation of paper-book, etc** —(1) The Tribunal may, on its own motion or on an application made by either party to the appeal, direct the preparation of a paper-book by and at the cost of the appellant

(2) On such a direction being given the Registrar or Assistant Registrar, as the case may be, shall call upon the parties to state what papers and documents they desire to be included in the paper-book

(3) After hearing the parties and taking the directions of the Bench, if necessary, the Registrar or Assistant Registrar, as the case may be, shall settle the list of papers to be included in the paper-book and call upon the appellant to furnish four or, if so directed by the President, more copies of the paper-book within a time to be fixed and the appellant shall comply with such directions

**19 Date and place for hearing of appeal to be notified** —(1) The Tribunal shall notify to the parties specifying the date and place of hearing of the appeal and send a copy of the memorandum of appeal to the respondent either before or with such notice

(2) The issue of the notice referred to in sub rule (1) shall not by itself be deemed to mean that the appeal has been admitted

**20 Date and place of hearing of appeal, how fixed** —The date and place of hearing of the appeal shall be fixed with reference to the current business of the Tribunal and the time necessary for the service of the notice of appeal, so as to allow the parties sufficient time to appear and be heard in support of or against the appeal

**21 Grant of time to answer in an appeal under section 253(1)** —In an appeal under sub section (1) of section 253, in fixing the date for the respondent to appear and answer to the appeal, a reasonable time shall be allowed for the necessary communication with the Commissioner through the proper channel and for the issue of instructions to an authorised representative to appear and answer on behalf of the respondent

**22 Cross-objections** —A memorandum of cross-objections filed under sub-section (4) of section 253 shall be registered and numbered as an appeal and all the rules, so far as may be, shall apply to such appeal

**23 Hearing of the appeal** —On the day fixed, or any other day to which the hearing may be adjourned, the appellant shall be heard in support of the



iv 4 I appeal The Tribunal shall, then, if necessary, hear the respondent against the appeal, and in such case the appellant shall be entitled to reply

**24 Dismissal of appeal for appellant's default, etc**—Where on the day fixed for hearing or any other day to which the hearing may be adjourned, the appellant does not appear when the appeal is called on for hearing, the Tribunal may, in its discretion, either dismiss the appeal for default or may hear it *ex parte*

Provided that where the appeal has been dismissed for default and the appellant appears afterwards and satisfies the Tribunal that there was sufficient cause for his non-appearance when the appeal was called on for hearing, the Tribunal shall make an order setting aside the dismissal and restoring the appeal

**25 Hearing appeal ex parte**—Where on the day fixed for hearing or any other day to which the hearing may be adjourned, the appellant appears and the respondent does not appear when the appeal is called on for hearing, the Tribunal may hear the appeal *ex parte*

*Explanation*—In rules 24 and 25 "appear" means appear in person or through an authorised representative

**26 Continuation of proceedings after the death or adjudication of a party to the appeal**—Where an assessee whether he be the appellant or the respondent to an appeal dies or is adjudicated insolvent or in the case of a company is being wound up, the appeal shall not abate and may, if the assessee was the appellant, be continued by, and if he was the respondent be continued against, the executor, administrator or other legal representative of the assessee or by or against the assignee, receiver or liquidator, as the case may be

**27 Respondent may support order on grounds decided against him**—The respondent, though he may not have appealed, may support the order appealed against on any of the grounds decided against him

**28 Remand of the case by the Tribunal**—Where the Tribunal is of the opinion that the case should be remanded, it may remand it to the authority from whose order the appeal has been preferred or to the Income tax Officer, with such directions as the Tribunal may think fit

**29 Production of additional evidence before the Tribunal**—The parties to the appeal shall not be entitled to produce additional evidence either oral or documentary before the Tribunal, but if the Tribunal requires any documents to be produced or any witness to be examined or any affidavit to be filed to enable it to pass orders or for any other substantial cause, or if the Income-tax Officer has decided the case without giving sufficient opportunity to the assessee to adduce evidence either on points specified by him or not specified by him, the Tribunal may allow such document to be produced or witness to be examined or affidavit to be filed or may allow such evidence to be adduced

**30 Mode of taking additional evidence**—Such document may be produced or such witness examined or such evidence adduced either before the Tribunal or before such income-tax authority as the Tribunal may direct

**31 Additional evidence to be submitted to the Tribunal**—If the document is directed to be produced or witness examined or evidence adduced before any income-tax authority, he shall comply with the direction of the Tribunal and after compliance send the document, the record of the deposition of the witness or the record of the evidence adduced, to the Tribunal

**32 Adjournment of appeal** —The Tribunal may, on such terms as it thinks fit, and at any stage adjourn the hearing of the appeal Div 4  
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**33 Proceedings not open to the public** —The proceedings before the Tribunal shall not be open to the public. No person other than the assessee, his employees, his authorised representative, the officers of the Income tax Department and counsel engaged by the Department, shall, without the permission of the Tribunal, remain present during such proceedings.

**34 Order to be signed and dated** —(1) The order of the Bench shall be in writing and shall be signed and dated by the members constituting it.

(2) Where a case is referred under sub section (4) of section 255, the order of the member or members to whom it is referred shall be signed and dated by him or them, as the case may be.

**35 Order to be communicated to parties** —The Tribunal shall, after the order is signed, cause it to be communicated to the assessee and to the Commissioner.

**36 What to accompany an application for reference under section 256(1)** —An application for reference under sub section (1) of section 256 shall be in triplicate and shall be accompanied by a list of documents (particulars of which shall be stated) which in the opinion of the applicant should form part of the case, and a translation in English of any such document, where necessary.

**37 Procedure in respect of application under section 256(1)** —Rules 6, 7, 12, 19, 20, 21, 23, 26 and 34 shall apply *mutatis mutandis* to an application under sub section (1) of section 256.

**38 Who may be joined as a respondent in an application by the assessee** —Where the application is by an assessee, the Commissioner to whom the Income-tax Officer is subordinate shall be made a respondent.

**39 Who may be joined as a respondent in an application by the Commissioner** —Where the application is by the Commissioner, the assessee shall be made a respondent.

**40 Same Bench to hear the application** —The Bench which heard the appeal giving rise to the application shall hear it unless the President directs otherwise.

**41 Time for submission of reply by the respondent** —On receipt of the notice of the date of hearing of the application the respondent shall, at least 7 days before the date of hearing, submit a reply in writing to the application.

**42 Contents of the reply** —The reply to the application shall specifically admit or deny whether the question of law formulated by the applicant arises out of the order under sub section (1) of section 254. If the question formulated by the applicant is defective, the reply shall state in what particular the question is defective and what is the exact question of law which arises out of the said order. The reply shall be accompanied by two copies thereof, a list of documents (the particulars of which shall be stated) which in the opinion of the respondent should form part of the case and a translation in English of any such document where necessary.

**43 Dismissal if no question of law arises** —On the day fixed for the hearing of the application or any other day to which the hearing may have been adjourned, after hearing the parties, the Tribunal shall dismiss the application, if it is of the opinion that no question of law arises out of the order passed under sub section (1) of section 254.

**44 Statement of case to be prepared, if a question of law arises** —Where the Tribunal is of the opinion that a question of law arises out of the order under sub section (1) of section 254, it shall draw up a statement of the case

**45 What to accompany the statement of the case** —The Tribunal shall append to the statement documents which, in its opinion, should form part of the case

**46 Order on application to be communicated to the parties** —The order on the application for reference shall be communicated to the assessee and the Commissioner

**47 Same Bench to deal with requisition from High Court under section 256(2)** —Where a requisition is received from the High Court under sub-section (2) of section 256, or where the case is referred back under section 258, it shall be dealt with by the Bench referred to in rule 40 unless otherwise directed by the President

**48 Copy of the judgment of the High Court to be sent to the Bench** —When a copy of the judgment of the High Court is received by the Tribunal under sub section (1) of section 260, it shall be sent to the Bench referred to in rule 40, or any other Bench as directed by the President, for such orders as may be necessary

**49 Scale of copying fees** —(1) Copying fees shall be charged as follows —

(a) For the first 200 words or less 80 nP

(b) For every additional 100 words or fraction thereof 40 nP

(2) Copying fees shall be recovered in advance in cash

(3) Where a party applies for immediate delivery of a copy of evidence taken down by a stenographer, the fee chargeable shall be  $2\frac{1}{2}$  times of those prescribed by sub rule (1), in such case, fifty per cent of the fees prescribed by sub rule (1) shall be paid to the stenographer

(4) Except in cases where copies are supplied free under the rules or instructions for the time being in force and in cases covered by sub rule (3), the scale of fees to be charged for the supply of copies urgently shall be twice those prescribed by sub rule (1)

**50 Fees for inspection of records** —(1) Fees for inspecting records and registers of the Tribunal shall be charged as follows —

(a) For the first hour or part thereof 80 nP

(b) For every additional hour or part thereof 50 nP

(2) Fees for inspection shall be recovered in advance in cash

(3) No fees shall be charged for inspecting records of a pending appeal or application by a party thereto

**51 Repeal and saving** —The Appellate Tribunal Rules, 1946, are hereby repealed except as to proceedings to which the Indian Income-tax Act, 1922, applies

## ORDER OF REGISTRAR, APPELLATE TRIBUNAL

ORDER No 1 of 1960

In pursuance of rule 7 of the Appellate Tribunal Rules, 1946, and in supercession of all previous orders on the subject, I hereby authorise the Assistant Registrars of the Appellate Tribunal at Bombay, Allahabad, Calcutta, Delhi, Madras, Hyderabad (Dn) and Patna for the purpose of that rule

Provided that, if at the time of presentation of appeal, the Assistant Registrar is absent from office, the appeal or application may be presented to the Superintendent of the office at Bombay or the head clerk at Allahabad, Calcutta, Delhi, Madras, Hyderabad (Dn) and Patna in the office during office hours

Provided further that, if the appellant or applicant apprehends that it is the last day of limitation for the presentation of his appeal or application, he may present it to the Assistant Registrars at Bombay, Allahabad, Patna, Delhi, Calcutta, Madras and Hyderabad (Dn) at their residence or any other place wherever they may be, or to a Member of the Tribunal at his residence or wherever he may be

25th January, 1960

Registrar

### SUGGESTIONS FOR GUIDANCE OF ASSESSEES

The following suggestions are made for the guidance of the assesseees and their representatives —

1 In all communications addressed to the Tribunal by the parties with regard to appeals or applications the number thereof, or, if the number is not known, the date of filing thereof, should invariably be given Failure to furnish this information will cause needless delay in answering correspondence

2 An application for adjournment of the hearing should be made at the earliest possible time If it could be presented personally, it should be done so If it cannot be presented personally, a stamped envelope with the address of the assessee or his representative should, as far as possible, accompany the application If a reply is required telegraphically, the necessary postage stamps should accompany the application If a telegram is sent asking for adjournment, arrangement should be made for a reply paid telegram The suggestion made in this paragraph is intended not so much as a measure of economy as a measure for greater efficiency The Tribunal is not bound to reply to applications for adjournment Replies will however be given as far as possible Unless the assessee hears that his application for adjournment has been granted, he should remain present at the hearing of the appeal or application as the case may be

3 Whenever an appeal or application is filed which is connected with an appeal or application relating to the same party filed earlier, reference thereto should invariably be given with the latter appeal or application so that the various connected appeals or applications could be linked up together This will be for the convenience of the parties themselves

If any practitioner wishes that appeals and applications relating to different assesseees in which he is engaged should be taken up on the same or consecutive days, he should intimate to the Tribunal the particulars of those appeals and applications including the dates of filing thereof, well in advance

Div 4  
I

4 An application for an early hearing of an appeal should invariably state why the assessee wants that his appeal should be given preference over the appeals made by other assesseees. The application should state whether or not the tax has been paid and, if so, to what extent.

5 An application for sending for the case of another assessee should also be made at the earliest possible opportunity. Cases will not ordinarily be sent for, for the purpose of making an assessment on the same basis as in other cases.

6 Attention is invited to \*rule 11 of the Appellate Tribunal Rules, 1946. That rule provides that where a fact which cannot be borne out by or is contrary to record is alleged, it should be stated clearly and concisely and should be supported by a duly sworn affidavit. Complaints are at times made before the Tribunal that certain statements attributed to the assesseees or their representatives were in fact not made. Unless \*rule 11 is complied with, it is not ordinarily possible to go outside the record. An application for time for filing an affidavit as required by \*rule 11 at the time of hearing of the appeal will not ordinarily be granted. The object of this suggestion is to save time in hearing and deciding appeals.

7 If an appeal is barred by time, or if there are reasons for believing that it may be barred by time, an application for condoning the delay should be made well in advance before the hearing of the appeal. Such an application should, if necessary, be supported by documentary evidence, as for example, a medical certificate or an affidavit.

8 Three copies (typed if possible) of the statements made by the assessee or the witnesses or of documents relied upon or of extracts of accounts, where necessary, should be produced at the time of the hearing of the appeal. As far as possible all such documents and papers should be in English or translated in English. This suggestion has been accepted by many solicitors and auditors appearing before the Tribunal. This suggestion is intended to facilitate the hearing of the appeal. Extract of accounts should, if possible, be certified by the assessee's representative or by any other reliable person and be in English.

9 The books of account should be kept handy at the time of hearing of the appeal. If books of account of the year preceding or succeeding the year of account are relevant, they should also be kept handy.

10 Assesseees should, as far as possible, be present at the hearing of the appeal. This suggestion is made entirely in the interest of the assesseees.

REGISTRAR,  
*Appellate Tribunal*

*27th September, 1951*

**DIVISION 5**

**MISCELLANEOUS STATUTES**

# A

## THE FINANCE ACTS

### THE FINANCE ACT, 1958

(Act No XI of 1958)

*(Received the assent of the President on the 28th April, 1958)*

**1 Short title**—This Act may be called the Finance Act, 1958

**2 Income-tax and super-tax**—(1) Subject to the provisions of sub-sections (2) and (3), for the year beginning on the 1st day of April, 1958,—

(a) income-tax shall be charged at the rates specified in Part I of the First Schedule, and, in the cases to which paragraphs A, B and C of that Part apply, shall be increased by a surcharge for purposes of the Union and a special surcharge on unearned income, calculated in either case in the manner provided therein, and

(b) super-tax shall, for the purposes of section 55 of the Indian Income-tax Act, 1922 (XI of 1922) (hereinafter referred to as the Income-tax Act), be charged at the rates specified in Part II of the First Schedule, and, in the cases to which paragraphs A, B and C of that Part apply, shall be increased by a surcharge for purposes of the Union and a special surcharge on unearned income, calculated in either case in the manner provided therein

(2) In making any assessment for the year ending on the 31st day of March, 1959,—

(a) where the total income of an assessee, not being a company, includes any income chargeable under the head “Salaries” or any income chargeable under the head “Interest on securities” or any income from dividends in respect of which by virtue of section 49B of the Income-tax Act he is deemed himself to have paid the income-tax imposed under that Act, the income tax payable by the assessee on that part of his total income which consists of such inclusions shall be an amount bearing to the total amount of income-tax payable according to the rates applicable under the operation of the Finance (No 2) Act, 1957 (XXVI of 1957), on his total income the same proportion as the amount of such inclusions bears to his total income,

(b) where the total income of an assessee, not being a company, includes any income chargeable under the head “Salaries” on which super tax has been or might have been deducted under the provisions of sub-section (2) of section 18 of the Income-tax Act, the super-tax payable by the assessee on that portion of his total income which consists of such inclusion shall be an amount bearing to the total amount of super-tax payable according to the rates applicable under the operation of the Finance (No 2) Act, 1957 (XXVI of 1957), on his total income the same proportion as the amount of such inclusion bears to his total income

(3) In cases to which section 17 of the Income-tax Act applies, the tax chargeable shall be determined as provided in that section, and with reference to the rates imposed by sub-section (1)

(4) For the purposes of this section, and of the rates of tax imposed thereby, the expression "total income" means total income as determined for the purposes of income tax or super-tax, as the case may be, in accordance with the provisions of the Income tax Act, and the expression "earned income" has the meaning assigned to it in clause (6AA) of section 2 of that Act

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**13 Commencement of amendments to Act XI of 1922**—(1) The amendment to the Income-tax Act made by sub clause (3) of clause (ii) of section 3 shall not apply—

(a) to a person to whom the second proviso to clause (xi a) of sub section (3) of section 4 of the Income-tax Act applies if his contract of service has been approved by the Central Government before the 1st day of March, 1958, or

(b) to any other person who arrives in India before the 1st day of April, 1958

(2) Save as otherwise provided in sub-section (1) or elsewhere in this Act, the amendments to the Income-tax Act made by this Act shall have effect on and from the 1st day of April, 1958

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## THE FIRST SCHEDULE

[See section 2]

### PART I

#### *Income-tax and surcharge on income tax*

#### *Paragraph A*

(1) In the case of every individual who is married and every Hindu undivided family whose total income does not exceed Rs 20,000 in either case —

#### RATES OF INCOME TAX

|                  | Where the individual has no child wholly or mainly dependent on him or where the Hindu undivided family has no minor coparcener | Where the individual has one child wholly or mainly dependent on him or where the Hindu undivided family has one minor coparcener | Where the individual has more than one child wholly or mainly dependent on him or where the Hindu undivided family has more than one minor coparcener |     |
|------------------|---------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------|-----|
|                  | Rs                                                                                                                              | Rs                                                                                                                                | Rs                                                                                                                                                    |     |
| (1) On the first | 3,000 of total income                                                                                                           | 3,300 of total income                                                                                                             | 3,600 of total income                                                                                                                                 | Nil |
| (2) On the next  | 2,000                                                                                                                           | 1,700                                                                                                                             | 1 400                                                                                                                                                 | 3%  |
| (3) On the next  | 2 500                                                                                                                           | 2,500                                                                                                                             | 2,500                                                                                                                                                 | 6%  |
| (4) On the next  | 2 500                                                                                                                           | 2,500                                                                                                                             | 2,500                                                                                                                                                 | 9%  |
| (5) On the next  | 2,500                                                                                                                           | 2,500                                                                                                                             | 2,500                                                                                                                                                 | 11% |
| (6) On the next  | 2,500                                                                                                                           | 2,500                                                                                                                             | 2,500                                                                                                                                                 | 14% |
| (7) On the next  | 5,000                                                                                                                           | 5,000                                                                                                                             | 5,000                                                                                                                                                 | 18% |



(ii) In the case of every individual who is not married and every individual or Hindu undivided family whose total income in either case exceeds Rs 20,000 and in the case of every unregistered firm or other association of persons, not being a case to which paragraph B or paragraph C or paragraph D of this Part applies — Div 5  
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|                                    | Rs                    |     |
|------------------------------------|-----------------------|-----|
| (1) On the first                   | 1,000 of total income | Nil |
| (2) On the next                    | 4,000                 | 3%  |
| (3) On the next                    | 2,500                 | 6%  |
| (4) On the next                    | 2,500                 | 9%  |
| (5) On the next                    | 2,500                 | 11% |
| (6) On the next                    | 2,500                 | 14% |
| (7) On the next                    | 5,000                 | 18% |
| (8) On the balance of total income |                       | 25% |

Provided that for the purposes of this paragraph—

- (i) no income-tax shall be payable on a total income which does not exceed the limit specified below ,
- (ii) the income-tax payable shall in no case exceed half the amount by which the total income exceeds the said limit ,
- (iii) the income-tax payable by an individual who is married or a Hindu undivided family whose total income exceeds in either case Rs 20,000 shall not exceed the aggregate of—
  - (a) the income-tax which would have been payable if the total income had been Rs 20,000 ,
  - (b) half the amount by which the total income exceeds Rs 20,000

The limit aforesaid shall be—

- (i) Rs 6,000 in the case of every Hindu undivided family which as at the end of the previous year satisfies either of the following conditions, namely —
  - (a) that it has at least two members entitled to claim partition who are not less than eighteen years of age , or
  - (b) that it has at least two members entitled to claim partition who are not lineally descended one from the other and who are not lineally descended from any other living member of the family ,
- (ii) Rs 3,000 in every other case

#### SURCHARGES ON INCOME-TAX

The amount of income-tax computed at the rates hereinbefore specified shall be increased by the aggregate of the surcharges calculated as under —

- (a) A surcharge for purposes of the Union equal to the sum of—
  - (i) five per cent of the amount of income-tax , and
  - (ii) where the earned income included in the total income exceeds Rs 1,00,000, five per cent of the difference between the amount of income-tax which would have been payable on the whole of the earned income included in the total income if such earned income had been the total income and the amount of income-tax payable on a total income of Rs 1,00,000 ,
- (b) A special surcharge on unearned income at fifteen per cent of the difference between the amount of income tax on the total income and

the amount of income-tax on the whole of the earned income, if any, included in the total income if such earned income had been the total income

Provided that—

- (i) no surcharge for purposes of the Union shall be payable where the total income does not exceed the limit specified below,
- (ii) no special surcharge on unearned income shall be payable in the case of an assessee whose total income does not include any income from dividend on ordinary shares if his total income does not exceed the limit specified below, and where the total income includes any dividends on ordinary shares, such limit shall be increased by Rs 1,500 or the amount of the said dividends, whichever is less

Provided further that—

- (a) where the total income includes any dividends on ordinary shares, the surcharge for purposes of the Union and the special surcharge on unearned income shall not in each case exceed half the amount by which the total income exceeds the respective limits applicable in either case,
- (b) the surcharge for purposes of the Union and the special surcharge on unearned income, both together, shall not exceed half the amount by which the total income exceeds the limit specified below

The limit aforesaid shall be—

- (i) Rs 15,000 in the case of every Hindu undivided family which satisfies as at the end of the previous year either of the following conditions, namely—
  - (a) that it has at least two members entitled to claim partition who are not less than eighteen years of age, or
  - (b) that it has at least two members entitled to claim partition who are not lineally descended one from the other and who are not lineally descended from any other living member of the family,
- (ii) Rs 7,500 in every other case

*Explanation*—For the purposes of this paragraph, in the case of every Hindu undivided family governed by the Mitakshara law, a son shall be deemed to be entitled to claim partition of the coparcenary property against his father or grandfather notwithstanding any custom to the contrary

### *Paragraph B*

In the case of every company and local authority,—

#### RATE OF INCOME TAX

On the whole of the total income

30%

#### SURCHARGE ON INCOME-TAX

The amount of income tax computed at the rate hereinbefore specified shall be increased by a surcharge of 5 per cent thereon

### *Paragraph C*

(1) In every case in which under the provisions of the Income tax Act, income-tax is to be charged at the maximum rate,—

## RATE OF INCOME-TAX

On the whole of the total income

25%

Div 5  
A

## SURCHARGE ON INCOME-TAX

The amount of income-tax computed at the rate hereinbefore specified shall be increased by a surcharge of 20 per cent thereon

(2) In every case in which under the provisions of the Income tax Act, income tax is to be deducted at the maximum rate, deduction shall be made from the whole income which is to be subjected to such deduction at the following rates, namely —

|                              | <i>Rate of income tax on<br/>the whole income</i> | <i>Rate of surcharge on<br/>the whole income</i> |
|------------------------------|---------------------------------------------------|--------------------------------------------------|
| In the case of every company | 30%                                               | 15%                                              |
| In any other case            | 25%                                               | 5%                                               |

*Paragraph D*

In the case of every registered firm,—

## RATES OF INCOME TAX

|                                            |     |
|--------------------------------------------|-----|
| (1) On the first Rs 40,000 of total income | Nil |
| (2) On the next Rs 35,000 of total income  | 5%  |
| (3) On the next Rs 75,000 of total income  | 6%  |
| (4) On the balance of total income         | 9%  |

## PART II

*Super-tax and surcharge on super-tax**Paragraph A*

In the case of every individual, Hindu undivided family, unregistered firm and other association of persons, not being a case to which any other paragraph of this Part applies,—

## RATES OF SUPER TAX

|                                            |     |
|--------------------------------------------|-----|
| (1) On the first Rs 20,000 of total income | Nil |
| (2) On the next Rs 5,000 of total income   | 5%  |
| (3) On the next Rs 5,000 of total income   | 15% |
| (4) On the next Rs 10,000 of total income  | 20% |
| (5) On the next Rs 10,000 of total income  | 30% |
| (6) On the next Rs 10,000 of total income  | 35% |
| (7) On the next Rs 10,000 of total income  | 40% |
| (8) On the balance of total income         | 45% |

## SURCHARGES ON SUPER TAX

The amount of super-tax computed at the rates hereinbefore specified shall be increased by the aggregate of the surcharges calculated as under —

(a) A surcharge for purposes of the Union equal to the sum of—

(i) five per cent of the amount of super-tax, and

(ii) where the earned income included in the total income exceeds Rs 1,00,000, five per cent of the difference between the amount of super-tax which would have been payable on the whole of the earned income included in the total income, if such earned income had been the total income and the amount of super-tax payable on a total income of Rs 1,00,000,

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- (b) A special surcharge on unearned income at fifteen per cent of the difference between the amount of super-tax on the total income and the amount of super-tax on the whole of the earned income, if any, included in the total income, if such earned income had been the total income

*Paragraph B*

In the case of every local authority,—

RATE OF SUPER TAX

|                                  |     |
|----------------------------------|-----|
| On the whole of the total income | 16% |
|----------------------------------|-----|

SURCHARGE ON SUPER-TAX

The amount of super-tax computed at the rate hereinafore specified shall be increased by a surcharge of  $12\frac{1}{2}\%$  thereon

*Paragraph C*

In the case of every association of persons being a co-operative society as defined in clause (5B) of section 2 of the Income-tax Act,—

RATES OF SUPER-TAX

- |                                            |     |
|--------------------------------------------|-----|
| (1) On the first Rs 25,000 of total income | Nil |
| (2) On the balance of total income         | 16% |

SURCHARGE ON SUPER-TAX

The amount of super-tax computed at the rates hereinafore specified shall be increased by a surcharge of  $12\frac{1}{2}\%$  thereon

*Paragraph D*

In the case of the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (XXXI of 1956),—

RATE OF SUPER-TAX

|                                                                    |     |
|--------------------------------------------------------------------|-----|
| On the whole of its profits and gains from life insurance business | 11% |
|--------------------------------------------------------------------|-----|

In the case of every other company,—

RATES OF SUPER-TAX

|                                  |     |
|----------------------------------|-----|
| On the whole of the total income | 50% |
|----------------------------------|-----|

Provided that,—

- (1) a rebate at the rate of 40 per cent on so much of the total income as consists of dividends from a subsidiary Indian company and a rebate at the rate of 35 per cent on the balance of the total income shall be allowed in the case of any company which—
  - (a) in respect of its profits liable to tax under the Income-tax Act for the year ending on the 31st day of March, 1959, has made the prescribed arrangements for the declaration and payment within India of the dividends payable out of such profits and for the deduction of super-tax from dividends in accordance with the provisions of sub section (3D) of section 18 of that Act, and

(b) is such a company as is referred to in sub-section (9) of section 23A of the Income-tax Act with a total income not exceeding Rs 25,000 , Div 5  
A

- (ii) a rebate at the rate of 40 per cent on so much of the total income as consists of dividends from a subsidiary Indian company and a rebate at the rate of 30 per cent on the balance of the total income shall be allowed in the case of any company which satisfies condition (a) but not condition (b) of the preceding clause ,
- (iii) a rebate at the rate of 40 per cent on so much of the total income as consists of dividends from a subsidiary Indian company and a rebate at the rate of 20 per cent on the balance of the total income shall be allowed in the case of any company not entitled to a rebate under either of the preceding clauses

Provided further that,—

- (i) the amount of the rebate under clause (i) or clause (ii) shall be reduced by the sum, if any, equal to the amount or the aggregate of the amounts, as the case may be, computed as hereunder —
    - (a) on that part of the aggregate of the sums the whole arrived at in accordance with clause (i) of the amount of second proviso to paragraph D of Part II of such part the First Schedule to the Finance (No 2) Act, 1957 (XXVI of 1957), as has not been deemed to have been taken into account, in accordance with clause (ii) of the said proviso, for the purpose of reducing the rebate mentioned in clause (i) of the said proviso to nil ,
    - (b) on the amount representing the face value of at the rate of 30% any bonus shares or the amount of any bonus issued to its shareholders during the previous year with a view to increasing the paid-up capital except to the extent to which such bonus shares or bonus have been issued out of premiums received in cash on the issue of its shares , and
    - (c) in addition, in the case of a company referred to in clause (ii) of the preceding proviso which has distributed to its shareholders during the previous year dividends in excess of six per cent of its paid-up capital, not being dividends payable at a fixed rate—
      - (A) in the case of a company which is not such as is referred to in sub-section (9) of section 23A of the Income tax Act—
        - on that part of the said dividends at the rate of 10% which exceeds 6 per cent but does not exceed 10 per cent of the paid-up capital ,
        - on that part of the said dividends at the rate of 20% which exceeds 10 per cent of the paid-up capital ,
- and

(B) in the case of any other company—

on that part of the said dividends at the rate  
which exceeds 6 per cent but does not of 10%  
exceed 10 per cent of the paid-up capital,

on that part of the said dividends at the rate  
which exceeds 10 per cent but does not of 20 %  
exceed 18 per cent of the paid-up capital,

on that part of the said dividends at the rate  
which exceeds 18 per cent of the paid-up of 30 %  
capital,

- (\*) where the sum arrived at in accordance with clause (i) of this proviso exceeds the amount of the rebate arrived at in accordance with clause (i) or clause (ii), as the case may be, of the preceding proviso, only so much of the amounts of reduction mentioned in sub clauses (a), (b) and (c) of clause (i) of this proviso as is sufficient, in that order, to reduce the rebate to nil shall be deemed to have been taken into account for the purpose

Provided further that the super tax payable by a company, the total income of which exceeds rupees twenty-five thousand shall not exceed the aggregate of—

- (a) the super-tax which would have been payable by the company if its total income had been rupees twenty-five thousand, and
- (b) half the amount by which its total income exceeds rupees twenty-five thousand

*Explanation* —For the purposes of this paragraph—

- (i) the expression “paid up capital” means the paid-up capital (other than capital entitled to a dividend at a fixed rate) of the company as on the first day of the previous year relevant to the assessment for the year ending on the 31st day of March, 1959, increased by any premiums received in cash by the company on the issue of its shares, standing to the credit of the share premium account as on the first day of the previous year aforesaid,
- (ii) the expression “dividend” shall be deemed to include any distribution included in the expression “dividend” as defined in clause (6A) of section 2 of the Income tax Act,
- (iii) where any portion of the profits and gains of the company is not included in its total income by reason of such portion being exempt from tax under any provision of the Income-tax Act, the “paid-up capital” of the company, the amount distributed as dividends (not being dividends payable at a fixed rate), the amount representing the face value of any bonus shares and the amount of any bonus issued to the shareholders shall each be deemed to be such proportion thereof as the total income of the company for the previous year bears to its total profits and gains for that year other than capital receipts, reduced by such allowances as may be admissible under the Income-tax Act which have not been taken into account by the company in its profit and loss account for that year

# THE FINANCE ACT, 1959

Div. 5  
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(ACT NO XII OF 1959)

*(Received the assent of the President on the 28th April, 1959)*

**1. Short title and commencement.**—(1) This Act may be called the Finance Act, 1959

(2) Save as otherwise provided in this Act, sections 3 to 18 inclusive and sections 20 to 27 inclusive shall be deemed to have come into force on the 1st day of April, 1959

**2 Income-tax and super-tax** —(1) Subject to the provisions of sub-sections (2) and (3), for the year beginning on the 1st day of April, 1959,—

(a) income-tax shall be charged at the rates specified in Part I of the First Schedule, and, in the cases to which paragraphs A, B and C of that Part apply, shall be increased by a surcharge for purposes of the Union and a special surcharge on unearned income, calculated in either case in the manner provided therein, and

(b) super-tax shall, for the purposes of section 55 of the Indian Income-tax Act, 1922 (XI of 1922) (hereinafter referred to as the Income-tax Act), be charged at the rates specified in Part II of the First Schedule, and, in the cases to which paragraphs A, B and C of that Part apply, shall be increased by a surcharge for purposes of the Union and a special surcharge on unearned income, calculated in either case in the manner provided therein

(2) In making any assessment for the year ending on the 31st day of March, 1960,—

(a) where the total income of an assessee, not being a company, includes any income chargeable under the head "Salaries" or any income chargeable under the head "Interest on securities" or any income from dividends in respect of which by virtue of section 49B of the Income-tax Act he is deemed himself to have paid the income-tax imposed under that Act, the income-tax payable by the assessee on that part of his total income which consists of such inclusions shall be an amount bearing to the total amount of income tax payable according to the rates applicable under the operation of the Finance Act, 1958 (XI of 1958), on his total income the same proportion as the amount of such inclusions bears to his total income,

(b) where the total income of an assessee, not being a company, includes any income chargeable under the head "Salaries" on which super-tax has been or might have been deducted under the provisions of sub section (2) of section 18 of the Income tax Act, the super-tax payable by the assessee on that portion of his total income which consists of such inclusion shall be an amount bearing to the total amount of super-tax payable according to the rates applicable under the operation of the Finance Act, 1958 (XI of 1958), on his total income the same proportion as the amount of such inclusion bears to his total income

(3) In cases to which section 17 of the Income-tax Act applies, the tax chargeable shall be determined as provided in that section, and with reference to the rates imposed by sub-section (1)

(4) In cases in which tax has to be deducted under section 18 of the Income tax Act at the prescribed rates, the deduction shall be made at the rates specified in Part III of the First Schedule

(5) In the case of a company liable to make payments of tax under section 18A of the Income-tax Act during the financial year beginning on the 1st day of April, 1959, the provisions of that section shall have effect as if the references to the rates of income-tax and super-tax in force for that financial year were references respectively—

(a) to a rate of 20 per cent for income tax, and

(b) to a rate of—

(i) 25 per cent for super tax in the case of an Indian company or a company which has made the prescribed arrangements for the declaration and payment of dividends within India, and

(ii) 43 per cent for super tax in the case of any other company

(6) For the purposes of this section, and of the rates of tax imposed thereby, the expression "total income" means total income as determined for the purposes of income tax or super tax, as the case may be, in accordance with the provisions of the Income tax Act, and the expression "earned income" has the meaning assigned to it in clause (6AA) of section 2 of that Act

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**19 Commencement of the amendments to Act XI of 1922 —(1) The amendments to the Income tax Act made by—**

(a) sub clause (a) of clause (i) of section 3, in so far as it seeks to omit the third proviso to sub section (1) of section 4 in its application to income chargeable under the head "Salaries",

(b) sub clause (b) of clause (i) and clause (ii) of section 3, and

(c) clause (i) of section 8,

shall, for the purpose of making any deductions of income tax and super-tax under sub-section (2) of section 18 of the Income-tax Act, have effect on and from the 1st day of April, 1959, and for other purposes shall have effect on and from the 1st day of April, 1960

(2) The amendments to the Income-tax Act made by section 9, section 10, section 16 and section 18 shall be deemed to have come into force on the 1st day of April, 1959

(3) The amendments to the Income tax Act made by section 5, section 7, clause (ii) of section 8, section 11, section 12, section 13, section 14 and section 15 shall have effect on and from the 1st day of April, 1960

\*[(3A) The amendments to the Income-tax Act made by section 5, section 7, section 12, section 14 and section 15 shall, in relation to dividends declared or payable by a company in respect of the previous year relevant to the assessment for the year ending on the 31st day of March, 1961, have effect on and from the 1st day of April, 1959 ]

(4) Notwithstanding anything contained in sub section (2) or sub-section (3), in relation to dividends declared or payable by a company \*[on or before the 30th day of June, 1960,] in respect of any previous

\* This sub section and these words were inserted by s 3 of the Finance Act, 1960, and shall be deemed always to have been in the Act



year relevant to any assessment year prior to the assessment year 1960-61, the Income-tax Act shall have effect as if the amendments contained in section 5, section 7, section 9, section 10, section 14, section 15, section 16 and section 18 had not been made

\*

\*

\*

## THE FIRST SCHEDULE

[See section 2]

## PART I

*Income-tax and surcharge on income tax**Paragraph A*

(i) In the case of every individual who is married and every Hindu undivided family whose total income does not exceed Rs 20,000 in either case —

## RATES OF INCOME TAX

|                  | Where the individual has no child wholly or mainly dependent on him or where the Hindu undivided family has no minor coparcener | Where the individual has one child wholly or mainly dependent on him or where the Hindu undivided family has one minor coparcener | Where the individual has more than one child wholly or mainly dependent on him or where the Hindu undivided family has more than one minor coparcener |     |
|------------------|---------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------|-----|
|                  | Rs                                                                                                                              | Rs                                                                                                                                | Rs                                                                                                                                                    |     |
| (1) On the first | 3,000 of total income                                                                                                           | 3,300 of total income                                                                                                             | 3,600 of total income                                                                                                                                 | Nil |
| (2) On the next  | 2,000 „                                                                                                                         | 1,700 „                                                                                                                           | 1,400 „                                                                                                                                               | 3%  |
| (3) On the next  | 2,500 „                                                                                                                         | 2,500 „                                                                                                                           | 2,500 „                                                                                                                                               | 6%  |
| (4) On the next  | 2,500 „                                                                                                                         | 2,500 „                                                                                                                           | 2,500 „                                                                                                                                               | 9%  |
| (5) On the next  | 2,500 „                                                                                                                         | 2,500 „                                                                                                                           | 2,500 „                                                                                                                                               | 11% |
| (6) On the next  | 2,500 „                                                                                                                         | 2,500 „                                                                                                                           | 2,500 „                                                                                                                                               | 14% |
| (7) On the next  | 5,000 „                                                                                                                         | 5,000 „                                                                                                                           | 5,000 „                                                                                                                                               | 18% |

(ii) In the case of every individual who is not married and every individual or Hindu undivided family whose total income in either case exceeds Rs 20,000 and in the case of every unregistered firm or other association of persons, not being a case to which paragraph B or paragraph C or paragraph D of this Part applies —

|                                    | Rs                    |     |
|------------------------------------|-----------------------|-----|
| (1) On the first                   | 1,000 of total income | Nil |
| (2) On the next                    | 4,000 „               | 3%  |
| (3) On the next                    | 2,500 „               | 6%  |
| (4) On the next                    | 2,500 „               | 9%  |
| (5) On the next                    | 2,500 „               | 11% |
| (6) On the next                    | 2,500 „               | 14% |
| (7) On the next                    | 5,000 „               | 18% |
| (8) On the balance of total income |                       | 25% |

Provided that for the purposes of this paragraph—

- (i) no income-tax shall be payable on a total income which does not exceed the limit specified below,
- (ii) the income-tax payable shall in no case exceed half the amount by which the total income exceeds the said limit,

- (iii) the income tax payable by an individual who is married or a Hindu undivided family whose total income exceeds in either case Rs 20,000 shall not exceed the aggregate of—
- (a) the income tax which would have been payable if the total income had been Rs 20,000,
  - (b) half the amount by which the total income exceeds Rs 20,000

The limit aforesaid shall be—

- (1) Rs 6,000 in the case of every Hindu undivided family which as at the end of the previous year satisfies either of the following conditions, namely —
  - (a) that it has at least two members entitled to claim partition who are not less than eighteen years of age, or
  - (b) that it has at least two members entitled to claim partition who are not lineally descended one from the other and who are not lineally descended from any other living member of the family,
- (ii) Rs 3,000 in every other case

#### SURCHARGES ON INCOME TAX

The amount of income tax computed at the rates hereinbefore specified shall be increased by the aggregate of the surcharges calculated as under —

- (a) A surcharge for purposes of the Union equal to the sum of—
  - (i) five per cent of the amount of income tax, and
  - (ii) where the earned income included in the total income exceeds Rs 1,00,000, five per cent of the difference between the amount of income tax which would have been payable on the whole of the earned income included in the total income if such earned income had been the total income and the amount of income-tax payable on a total income of Rs 1,00,000,
- (b) A special surcharge on unearned income at fifteen per cent of the difference between the amount of income tax on the total income and the amount of income-tax on the whole of the earned income, if any, included in the total income if such earned income had been the total income

Provided that—

- (i) no surcharge for purposes of the Union shall be payable where the total income does not exceed the limit specified below,
- (ii) no special surcharge on unearned income shall be payable in the case of an assessee whose total income does not include any income from dividend on ordinary shares if his total income does not exceed the limit specified below, and where the total income includes any dividends on ordinary shares, such limit shall be increased by Rs 1,500 or the amount of the said dividends, whichever is less

Provided further that—

- (a) where the total income includes any dividends on ordinary shares, the surcharge for purposes of the Union and the special surcharge on unearned income shall not in each case exceed half the amount by which the total income exceeds the respective limits applicable in either case,

- (b) the surcharge for purposes of the Union and the special surcharge on unearned income, both together, shall not exceed half the amount by which the total income exceeds the limit specified below Div 5  
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The limit aforesaid shall be—

- (1) Rs 15,000 in the case of every Hindu undivided family which satisfies as at the end of the previous year either of the following conditions, namely —

- (a) that it has at least two members entitled to claim partition who are not less than eighteen years of age, or  
(b) that it has at least two members entitled to claim partition who are not lineally descended one from the other and who are not lineally descended from any other living member of the family,

- (ii) Rs 7,500 in every other case

*Explanation* —For the purposes of this paragraph, in the case of every Hindu undivided family governed by the Mitakshara law, a son shall be deemed to be entitled to claim partition of the coparcenary property against his father or grandfather notwithstanding any custom to the contrary

### *Paragraph B*

In the case of every company and local authority —

#### RATE OF INCOME-TAX

|                                  |     |
|----------------------------------|-----|
| On the whole of the total income | 30% |
|----------------------------------|-----|

#### SURCHARGE ON INCOME-TAX

The amount of income-tax computed at the rates hereinbefore specified shall be increased by a surcharge of 5 per cent thereon

### *Paragraph C*

In every case in which under the provisions of the Income-tax Act, income-tax is to be charged at the maximum rate,—

#### RATE OF INCOME TAX

|                                  |     |
|----------------------------------|-----|
| On the whole of the total income | 25% |
|----------------------------------|-----|

#### SURCHARGE ON INCOME-TAX

The amount of income tax computed at the rate hereinbefore specified shall be increased by a surcharge of 20 per cent thereon

### *Paragraph D*

In the case of every registered firm,—

#### RATES OF INCOME-TAX

|                                            |     |
|--------------------------------------------|-----|
| (1) On the first Rs 40,000 of total income | Nil |
| (2) On the next Rs 35,000 of total income  | 5%  |
| (3) On the next Rs 75,000 of total income  | 6%  |
| (4) On the balance of total income         | 9%  |

## PART II

*Super tax and surcharge on super tax**Paragraph A*

In the case of every individual, Hindu undivided family, unregistered firm and other association of persons, not being a case to which any other paragraph of this Part applies,—

## RATES OF SUPER TAX

|                                            |     |
|--------------------------------------------|-----|
| (1) On the first Rs 20,000 of total income | Nil |
| (2) On the next Rs 5,000 of total income   | 5%  |
| (3) On the next Rs 5,000 of total income   | 15% |
| (4) On the next Rs 10,000 of total income  | 20% |
| (5) On the next Rs 10,000 of total income  | 30% |
| (6) On the next Rs 10,000 of total income  | 35% |
| (7) On the next Rs 10,000 of total income  | 40% |
| (8) On the balance of total income         | 45% |

## SURCHARGES ON SUPER TAX

The amount of super-tax computed at the rates hereinbefore specified shall be increased by the aggregate of the surcharges calculated as under —

(a) A surcharge for purposes of the Union equal to the sum of—

(i) five per cent of the amount of super-tax, and

(ii) where the earned income included in the total income exceeds Rs 1,00,000, five per cent of the difference between the amount of super-tax which would have been payable on the whole of the earned income included in the total income, if such earned income had been the total income and the amount of super-tax payable on a total income of Rs 1,00,000 ,

(b) A special surcharge on unearned income at fifteen per cent of the difference between the amount of super-tax on the total income and the amount of super-tax on the whole of the earned income, if any, included in the total income, if such earned income had been the total income

*Paragraph B*

In the case of every local authority,—

## RATE OF SUPER TAX

|                                  |     |
|----------------------------------|-----|
| On the whole of the total income | 16% |
|----------------------------------|-----|

## SURCHARGE ON SUPER-TAX

The amount of super-tax computed at the rates hereinbefore specified shall be increased by a surcharge of 12½ per cent thereon

*Paragraph C*

In the case of every association of persons being a co operative society as defined in clause (5B) of section 2 of the Income-tax Act,—

## RATES OF SUPER TAX

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|                                            |     |
|--------------------------------------------|-----|
| (1) On the first Rs 25,000 of total income | Nil |
| (2) On the balance of total income         | 16% |

## SURCHARGE ON SUPER-TAX

The amount of super-tax computed at the rates hereinbefore specified shall be increased by a surcharge of 12½ per cent thereon

*Paragraph D*

In the case of the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (XXXI of 1956),—

## RATE OF SUPER TAX

|                                                                    |     |
|--------------------------------------------------------------------|-----|
| On the whole of its profits and gains from life insurance business | 11% |
|--------------------------------------------------------------------|-----|

In the case of every other company,—

## RATES OF SUPER-TAX

|                                  |     |
|----------------------------------|-----|
| On the whole of the total income | 50% |
|----------------------------------|-----|

Provided that,—

- (i) a rebate at the rate of 40 per cent on so much of the total income as consists of dividends from a subsidiary Indian company and a rebate at the rate of 35 per cent on the balance of the total income shall be allowed in the case of any company which—
  - (a) in respect of its profits liable to tax under the Income-tax Act for the year ending on the 31st day of March, 1960, has made the prescribed arrangements for the declaration and payment within India of the dividends payable out of such profits and for the deduction of super-tax from dividends in accordance with the provisions of sub section (3D) of section 18 of that Act, and
  - (b) is such a company as is referred to in sub-section (9) of section 23A of the Income-tax Act with a total income not exceeding Rs 25,000,
- (ii) a rebate at the rate of 40 per cent on so much of the total income as consists of dividends from a subsidiary Indian company and a rebate at the rate of 30% on the balance of the total income shall be allowed in the case of any company which satisfies condition (a) but not condition (b) of the preceding clause,
- (iii) a rebate at the rate of 40% on so much of the total income as consists of dividends from a subsidiary Indian company and a rebate at the rate of 20% on the balance of the total income shall be allowed in the case of any company not entitled to a rebate under either of the preceding clauses

Provided further that,—

- (i) the amount of the rebate under clause (i) or clause (ii) shall be reduced by the sum, if any, equal to the amount or the aggregate of the amounts, as the case may be, computed as hereunder :—
  - (a) on that part of the aggregate of the sums arrived at in accordance with clause (i) of the second proviso to paragraph D of Part II of the First such part

Schedule to the Finance Act, 1958 (XI of 1958), as has not been deemed to have been taken into account, in accordance with clause (ii) of the said proviso, for the purpose of reducing the rebate mentioned in clause (i) of the said proviso to nil,

- (b) on the amount representing the face value of any bonus shares or the amount of any bonus issued to its shareholders during the previous year with a view to increasing the paid-up capital except to the extent to which such bonus shares or bonus have been issued out of premiums received in cash on the issue of its shares, and at the rate of 30%

- (c) in addition, in the case of a company referred to in clause (ii) of the preceding proviso which has distributed to its shareholders during the previous year dividends in excess of six per cent of its paid-up capital, not being dividends payable at a fixed rate—

- (A) in the case of a company which is not such as is referred to in sub-section (9) of section 23A of the Income-tax Act—

on that part of the said dividends which exceeds 6 per cent but does not exceed 10 per cent of the paid-up capital, at the rate of 10 %

on that part of the said dividends which exceeds 10 per cent of the paid-up capital, at the rate of 20%  
and

- (B) in the case of any other company—

on that part of the said dividends which exceeds 6 per cent but does not exceed 10 per cent of the paid-up capital, at the rate of 10%

on that part of the said dividends which exceeds 10 per cent but does not exceed 18 per cent of the paid-up capital, at the rate of 20%

on that part of the said dividends which exceeds 18 per cent of the paid-up capital, at the rate of 30 %

- (ii) where the sum arrived at in accordance with clause (i) of this proviso exceeds the amount of the rebate arrived at in accordance with clause (i) or clause (ii), as the case may be, of the preceding proviso, only so much of the amounts of reduction mentioned in sub-clauses (a), (b) and (c) of clause (i) of this proviso as is sufficient, in that order, to reduce the rebate to nil shall be deemed to have been taken into account for the purpose

Provided further that the super-tax payable by a company, the total income of which exceeds rupees twenty-five thousand shall not exceed the aggregate of—

- (a) the super-tax which would have been payable by the company if its total income had been rupees twenty-five thousand, and  
(b) half the amount by which its total income exceeds rupees twenty-five thousand

*Explanation* —For the purposes of this paragraph,—

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- (i) the expression "paid-up capital" means the paid-up capital (other than capital entitled to a dividend at a fixed rate) of the company as on the first day of the previous year relevant to the assessment for the year ending on the 31st day of March, 1960, increased by any premiums received in cash by the company on the issue of its shares, standing to the credit of the share premium account as on the first day of the previous year aforesaid,
- (ii) the expression "dividend" shall be deemed to include any distribution included in the expression "dividend" as defined in clause (6A) of section 2 of the Income-tax Act,
- (iii) where any portion of the profits and gains of the company is not included in its total income by reason of such portion being exempted from tax under any provision of the Income-tax Act, the "paid-up capital" of the company, the amount distributed as dividends (not being dividends payable at a fixed rate), the amount representing the face value of any bonus shares and the amount of any bonus issued to the shareholders shall each be deemed to be such proportion thereof as the total income of the company for the previous year bears to its total profits and gains for that year other than capital receipts, reduced by such allowances as may be admissible under the Income-tax Act which have not been taken into account by the company in its profit and loss account for that year

### PART III

#### *Rates for deduction of tax under section 18 of the Income-tax Act at the prescribed rates*

In every case in which under the provisions of section 18 of the Income-tax Act, tax is to be deducted at the prescribed rates, deduction shall be made from the income subject to deduction at the following rates —

|                                                                                                                                                                                    | Income tax         |                   | Super tax                                                                                                                                   |                   |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|-------------------|---------------------------------------------------------------------------------------------------------------------------------------------|-------------------|
|                                                                                                                                                                                    | Rate of income tax | Rate of surcharge | Rate of super tax                                                                                                                           | Rate of surcharge |
| 1 In the case of a person other than a company—                                                                                                                                    |                    |                   |                                                                                                                                             |                   |
| (a) in every case, on the whole income (excluding interest payable on any security of the Central Government issued or declared to be income tax free), and                        | 25%                | 5%                |                                                                                                                                             |                   |
| (b) in addition, where the person is one whom the person responsible for paying the income has no reason to believe to be resident in the taxable territories, on the whole income |                    |                   | Super tax and surcharge on super tax in accordance with the provisions of clause (b) of sub-section (1) of section 17 of the Income tax Act |                   |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Rate of<br>income tax | Rate of<br>super tax             |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|----------------------------------|
| <p>2 In the case of a company—</p> <p>(a) in every case—</p> <p>(i) on the whole income (excluding interest payable on any security of the Central Government issued or declared to be income tax free), and</p> <p>(ii) on the whole income (excluding dividends payable by an Indian company referred to in section 56A of the Income tax Act), and</p> <p>(b) in addition,—</p> <p>(i) where the company is an Indian company or a company which has made the prescribed arrangements for the declaration and payment of dividends within India, on the whole income (excluding dividends payable by its subsidiary Indian company, if any, or by an Indian company referred to in section 56A of the Income tax Act),</p> <p>(ii) where the company is neither an Indian company nor a company which has made the prescribed arrangements for the declaration and payment of dividends within India, on the whole income (excluding dividends payable by its subsidiary Indian company, if any, or by an Indian company referred to in section 56A of the Income tax Act)</p> | <p>20%</p>            | <p>10%</p> <p>15%</p> <p>33%</p> |



# THE FINANCE ACT, 1960

Div. 5  
A

(Act No XIII of 1960)

*(Received the assent of the President on the 28th April, 1960)*

**1 Short title and commencement**—(1) This Act may be called the Finance Act, 1960

(2) Save as otherwise provided in this Act, sections 3 to 17 inclusive shall be deemed to have come into force on the 1st day of April, 1960

**2 Income-tax and super-tax**—(1) Subject to the provisions of sub-sections (2), (3) and (4), for the year beginning on the 1st day of April, 1960,—

(a) income-tax shall be charged at the rates specified in Part I of the First Schedule, and, in the cases to which paragraphs A, B and C of that Part apply, shall be increased by a surcharge for purposes of the Union and a special surcharge, calculated in either case in the manner provided therein, and

(b) super-tax shall, for the purposes of section 55 of the Indian Income-tax Act, 1922 (XI of 1922) (hereinafter referred to as the Income-tax Act), be charged at the rates specified in Part II of the First Schedule, and, in the cases to which paragraphs A, B and C of that Part apply, shall be increased by a surcharge for purposes of the Union and a special surcharge, calculated in either case in the manner provided therein

(2) In making any assessment for the year ending on the 31st day of March, 1960,—

(a) where the total income of an assessee, not being a company, includes any income chargeable under the head "Salaries" or any income chargeable under the head "Interest on securities" or any income from dividends from which income-tax has been or might have been deducted under the provisions of section 18 of the Income-tax Act or in respect of which by virtue of section 49B of the Income-tax Act, as continued in force by sub-section (4) of section 19 of the Finance Act, 1959 (XII of 1959), he is deemed himself to have paid the income-tax imposed under the Income-tax Act, the income-tax payable by the assessee on that part of his total income which consists of such inclusions shall be an amount bearing to the total amount of income-tax payable according to the rates applicable under the operation of the Finance Act, 1959 (XII of 1959), on his total income the same proportion as the amount of such inclusions bears to his total income,

(b) where the total income of an assessee, not being a company, includes any income chargeable under the head "Salaries" on which super-tax has been or might have been deducted under the provisions of sub-section (2) of section 18 of the Income-tax Act, the super tax payable by the assessee on that portion of his total income which consists of such inclusion shall be an amount bearing to the total amount of super tax payable according to the rates applicable under the operation of the Finance Act, 1959 (XII of 1959), on his total income the same proportion as the amount of such inclusion bears to his total income

(3) In making any assessment for the year ending on the 31st day of March, 1959, or for the year ending on the 31st day of March, 1960, or for the year ending on the 31st day of March, 1961, where the total income of a company, other than the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (XXXI of 1956), includes any profits and gains from life insurance business, the super-tax payable by it shall be the aggregate of the tax calculated—

(i) on the amount of profits and gains from life insurance business so included, at the rate applicable to the Life Insurance Corporation of India in accordance with the Finance Act of the relevant year, and

(ii) on the remaining part of its total income, at the rate applicable to the company on its total income

(4) In cases to which section 17 of the Income-tax Act applies, the tax chargeable shall be determined as provided in that section, and with reference to the rates imposed by sub-section (1)

(5) In cases in which tax has to be deducted under section 18 of the Income-tax Act at the prescribed rates, the deduction shall be made at the rates specified in Part III of the First Schedule

(6) For the purposes of this section, and of the rates of tax imposed thereby, the expression "total income" means total income as determined for the purposes of income-tax or super-tax, as the case may be, in accordance with the provisions of the Income-tax Act, and the expression "earned income" has the meaning assigned to it in clause (64A) of section 2 of that Act

## THE FIRST SCHEDULE

[See section 2]

### PART I

#### *Income-tax and surcharges on income tax*

#### *Paragraph A*

(1) In the case of every individual who is married and every Hindu undivided family whose total income does not exceed Rs 20,000 in either case —

#### RATES OF INCOME-TAX

|                  | Where the individual has no child wholly or mainly dependent on him or where the Hindu undivided family has no minor coparcener | Where the individual has one child wholly or mainly dependent on him or where the Hindu undivided family has one minor coparcener | Where the individual has more than one child wholly or mainly dependent on him or where the Hindu undivided family has more than one minor coparcener |     |
|------------------|---------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------|-----|
|                  | Rs                                                                                                                              | Rs                                                                                                                                | Rs                                                                                                                                                    |     |
| (1) On the first | 3,000 of total income                                                                                                           | 3,300 of total income                                                                                                             | 3,600 of total income                                                                                                                                 | Nil |
| (2) On the next  | 2,000 "                                                                                                                         | 1,700 "                                                                                                                           | 1,400 "                                                                                                                                               | 3%  |
| (3) On the next  | 2,500 "                                                                                                                         | 2,300 "                                                                                                                           | 2,500 "                                                                                                                                               | 6%  |
| (4) On the next  | 2,500 "                                                                                                                         | 2,500 "                                                                                                                           | 2,500 "                                                                                                                                               | 9%  |
| (5) On the next  | 2,500 "                                                                                                                         | 2,500 "                                                                                                                           | 2,500 "                                                                                                                                               | 11% |
| (6) On the next  | 2,500 "                                                                                                                         | 2,500 "                                                                                                                           | 2,500 "                                                                                                                                               | 14% |
| (7) On the next  | 5,000 "                                                                                                                         | 5,000 "                                                                                                                           | 5,000 "                                                                                                                                               | 18% |

(ii) In the case of every individual who is not married and every undivided or Hindu undivided family whose total income in either case exceeds Rs 20,000 and in the case of every unregistered firm or other association of persons, not being a case to which any other paragraph of this Part applies — Div 5  
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|                                    | Rs    |                 |     |
|------------------------------------|-------|-----------------|-----|
| (1) On the first                   | 1,000 | of total income | Nil |
| (2) On the next                    | 4,000 | "               | 3%  |
| (3) On the next                    | 2,500 | "               | 6%  |
| (4) On the next                    | 2,500 | "               | 9%  |
| (5) On the next                    | 2,500 | "               | 11% |
| (6) On the next                    | 2,500 | "               | 14% |
| (7) On the next                    | 5,000 | "               | 18% |
| (8) On the balance of total income |       |                 | 25% |

Provided that for the purposes of this paragraph—

- (i) no income-tax shall be payable on a total income which does not exceed the limit specified below,
- (ii) the income-tax payable shall in no case exceed half the amount by which the total income exceeds the said limit,
- (iii) the income-tax payable by an individual who is married or a Hindu undivided family whose total income exceeds in either case Rs 20,000 shall not exceed the aggregate of—
  - (a) the income-tax which would have been payable if the total income had been Rs 20,000,
  - (b) half the amount by which the total income exceeds Rs 20,000

The limit aforesaid shall be—

- (i) Rs 6,000 in the case of every Hindu undivided family which as at the end of the previous year satisfies either of the following conditions, namely —
  - (a) that it has at least two members entitled to claim partition who are not less than eighteen years of age, or
  - (b) that it has at least two members entitled to claim partition who are not lineally descended one from the other and who are not lineally descended from any other living member of the family,
- (ii) Rs 3,000 in every other case

#### SURCHARGES ON INCOME-TAX

The amount of income-tax computed at the rates hereinbefore specified shall be increased by the aggregate of the surcharges calculated as under —

- (a) A surcharge for purposes of the Union equal to the sum of—
  - (i) five per cent of the amount of income-tax; and
  - (ii) where the earned income included in the total income exceeds Rs 1,00,000, five per cent of the difference between the amount of income-tax which would have been payable on the whole of the earned income included in the total income if such earned income had been the total income and the amount of income-tax payable on a total income of Rs 1,00,000,
- (b) A special surcharge at fifteen per cent of the difference between the amount of income-tax on the total income and the amount

## SURCHARGES ON INCOME TAX

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The amount of income tax computed at the rate hereinbefore specified shall be increased by the aggregate of the surcharges calculated as under —

- (a) a surcharge for purposes of the Union of five per cent of the amount of income-tax, and
- (b) a special surcharge of fifteen per cent of the amount of income-tax

*Paragraph D*

In the case of every company,—

## RATE OF INCOME-TAX

|                                  |     |
|----------------------------------|-----|
| On the whole of the total income | 20% |
|----------------------------------|-----|

*Paragraph E*

In the case of every registered firm,—

## RATES OF INCOME TAX

|                                            |     |
|--------------------------------------------|-----|
| (1) On the first Rs 40,000 of total income | Nil |
| (2) On the next Rs 35,000 of total income  | 5%  |
| (3) On the next Rs 75,000 of total income  | 6%  |
| (4) On the balance of total income         | 9%  |

## PART II

*Super-tax and surcharges on super-tax**Paragraph A*

In the case of every individual, Hindu undivided family, unregistered firm and other association of persons, not being a case to which any other paragraph of this Part applies,—

## RATES OF SUPER TAX

|                                            |     |
|--------------------------------------------|-----|
| (1) On the first Rs 20,000 of total income | Nil |
| (2) On the next Rs 5,000 of total income   | 5%  |
| (3) On the next Rs 5,000 of total income   | 15% |
| (4) On the next Rs 10,000 of total income  | 20% |
| (5) On the next Rs 10,000 of total income  | 30% |
| (6) On the next Rs 10,000 of total income  | 35% |
| (7) On the next Rs 10,000 of total income  | 40% |
| (8) On the balance of total income         | 45% |

## SURCHARGES ON SUPER TAX

The amount of super-tax computed at the rates hereinbefore specified shall be increased by the aggregate of the surcharges calculated as under —

- (a) A surcharge for purposes of the Union equal to the sum of—
  - (i) five per cent of the amount of super-tax, and

- (ii) where the earned income included in the total income exceeds Rs 1,00,000, five per cent of the difference between the amount of super-tax which would have been payable on the whole of the earned income included in the total income, if such earned income had been the total income and the amount of super-tax payable on a total income of Rs 1,00,000,

- (b) A special surcharge at fifteen per cent of the difference between the amount of super-tax on the total income and the amount of super-tax on the whole of the earned income, if any, included in the total income, if such earned income had been the total income

### *Paragraph B*

In the case of every local authority,—

#### RATE OF SUPER-TAX

|                                  |     |
|----------------------------------|-----|
| On the whole of the total income | 16% |
|----------------------------------|-----|

#### SURCHARGE ON SUPER-TAX

The amount of super-tax computed at the rate hereinbefore specified shall be increased by a surcharge for purposes of the Union of 12½ per cent of the amount of super-tax

### *Paragraph C*

In the case of every association of persons being a co operative society as defined in clause (5B) of section 2 of the Income-tax Act,—

#### RATES OF SUPER-TAX

|                                            |     |
|--------------------------------------------|-----|
| (1) On the first Rs 25,000 of total income | Nil |
| (2) On the balance of total income         | 16% |

#### SURCHARGE ON SUPER TAX

The amount of super-tax computed at the rates hereinbefore specified shall be increased by a surcharge for purposes of the Union of 12½ per cent of the amount of super-tax

### *Paragraph D*

In the case of every company, other than the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (XXXI of 1956),—

#### RATES OF SUPER-TAX

|                                  |     |
|----------------------------------|-----|
| On the whole of the total income | 55% |
|----------------------------------|-----|

Provided that,—

- (i) a rebate at the rate of 45 per cent on so much of the total income as consists of dividends from a subsidiary Indian company, at the rate of 40 per cent on so much of the total income as consists of dividends from any other Indian company formed and registered on or after the 1st day of April, 1959, and at the rate of 35 per cent on the balance of the total income shall be allowed in the case of any company which—
- (a) in respect of its profits liable to tax under the Income-tax Act for the year ending on the 31st day of March, 1961, has made the prescribed arrangements for the declaration and payment within India of the dividends payable out of such profits in accordance with the provisions of sub section (3D) of section 18 of that Act, and

(b) is such a company as is referred to in sub-section (9) of section 23A of the Income-tax Act with a total income not exceeding Rs 25,000 , Div 5  
A

- (ii) a rebate at the rate of 45 per cent on so much of the total income as consists of dividends from a subsidiary Indian company , at the rate of 35 per cent on so much of the total income as consists of dividends from any other Indian company formed and registered on or after the 1st day of April, 1959 , and at the rate of 30 per cent on the balance of the total income shall be allowed in the case of any company which satisfies condition (a) but not condition (b) of the preceding clause ,
- (iii) a rebate at the rate of 45 per cent on so much of the total income as consists of dividends from a subsidiary Indian company , at the rate of 22 per cent on so much of the total income as consists of dividends from any other Indian company formed and registered on or after the 1st day of April, 1959 , and at the rate of 12 per cent on the balance of the total income shall be allowed in the case of any company not entitled to a rebate under either of the preceding clauses

Provided further that,—

- (i) the amount of the rebate under clause (i) or clause (ii) of the preceding proviso shall be reduced by the sum, if any, equal to the amount or the aggregate of the amounts, as the case may be, computed as hereunder —
  - (a) on the aggregate of the sums computed at the rate of 100% in the manner provided in clause (i) of the second proviso to paragraph D of Part II of the First Schedule to the Finance Act, 1959 (XII of 1959), as reduced by the amount, if any, which is deemed to have been taken into account, in accordance with clause (ii) of the said proviso, for the purpose of reducing the rebate mentioned in clause (i) of the said proviso to nil , and
  - (b) on the amount representing the face value of any bonus shares or the amount of any bonus issued to its shareholders during the previous year with a view to increasing the paid-up capital , at the rate of 30%
- (ii) where the sum arrived at in accordance with clause (i) of this proviso exceeds the amount of the rebate arrived at in accordance with clause (i) or clause (ii), as the case may be, of the preceding proviso, only so much of the amounts of reduction mentioned in sub-clauses (a) and (b) of clause (i) of this proviso as is sufficient, in that order, to reduce the rebate to nil shall be deemed to have been taken into account for the purpose

Provided further that the super-tax payable by a company, the total income of which exceeds rupees twenty-five thousand, shall not exceed the aggregate of—

- (a) the super-tax which would have been payable by the company if its total income had been rupees twenty-five thousand , and

- (b) half the amount by which its total income exceeds rupees twenty-five thousand

*Explanation* —For the purposes of this paragraph, where any portion of the profits and gains of a company is not included in its total income by reason of such portion being agricultural income, the amount representing the face value of any bonus shares and the amount of any bonus issued to its shareholders shall each be deemed to be such proportion thereof as the average of the total income of the company in the five previous years in which the company has been in receipt of taxable income immediately preceding the relevant previous year bears to the average of its total profits and gains (excluding capital receipts) for the preceding five years aforesaid, reduced by such allowances as may be admissible under the Income-tax Act which have not been taken into account by the company in its profit and loss accounts for the preceding five years aforesaid

### *Paragraph E*

In the case of the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (XXXI of 1956),—

### RATE OF SUPER-TAX

On the whole of its profits and gains from life insurance business 22 5%

### PART III

#### *Rates for deduction of tax under section 18 of the Income-tax Act at the prescribed rates*

In every case in which under the provisions of section 18 of the Income-tax Act, tax is to be deducted at the prescribed rates, deduction shall be made from the income subject to deduction at the following rates —

|                                                                                                                                                                                    | Income tax         |                                     |                   | Super tax         |                                                                                                                                              |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|-------------------------------------|-------------------|-------------------|----------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                                                                                                                    | Rate of income tax | Rates of surcharges                 |                   | Rate of super tax | Rates of surcharges                                                                                                                          |
|                                                                                                                                                                                    |                    | Surcharge for purposes of the Union | Special surcharge |                   |                                                                                                                                              |
| 1 In the case of a person other than a company—                                                                                                                                    |                    |                                     |                   |                   |                                                                                                                                              |
| (a) in every case, on the whole income (excluding interest payable on any security of the Central Government issued or declared to be income tax free), and                        | 25%                | 1 25%                               | 3 75%             |                   |                                                                                                                                              |
| (b) in addition, where the person is one whom the person responsible for paying the income has no reason to believe to be resident in the taxable territories, on the whole income |                    |                                     |                   |                   | Super tax and surcharges on super tax in accordance with the provisions of clause (b) of sub-section (1) of section 17 of the Income tax Act |

Div 5  
A

|                                                                                                                                                                                      | Rate of<br>income<br>tax | Rate of<br>super<br>tax |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|-------------------------|
| 2 In the case of a company—                                                                                                                                                          |                          |                         |
| (a) in every case—                                                                                                                                                                   |                          |                         |
| (i) on the whole income (excluding interest payable on any security of the Central Government issued or declared to be income tax free), and                                         | 20%                      |                         |
| (ii) on the whole income (excluding dividends payable by an Indian company referred to in section 56A of the Income tax Act), and                                                    |                          | 10%                     |
| (b) in addition, where the company is neither an Indian company nor a company which has made the prescribed arrangements for the declaration and payment of dividends within India,— |                          |                         |
| (i) on the income from dividends (excluding dividends payable by its subsidiary Indian company, if any, or by an Indian company referred to in section 56A of the Income tax Act)—   |                          |                         |
| (a) on dividends payable by an Indian company formed and registered on or after the 1st day of April, 1959                                                                           |                          | 23%                     |
| (b) on any other dividend                                                                                                                                                            |                          | 33%                     |
| (ii) on any other income, not being income from dividends                                                                                                                            |                          | 33%                     |



# THE FINANCE ACT, 1961

(Act No XIV of 1961)

*(Received the assent of the President on the 29th April, 1961)*

**1 Short title and commencement**—(1) This Act may be called the Finance Act, 1961

(2) Save as otherwise provided in this Act, sections 3 to 10 inclusive shall be deemed to have come into force on the 1st day of April, 1961

**2 Income-tax and super-tax**—(1) Subject to the provisions of sub-sections (2), (3) and (4) for the year beginning on the 1st day of April, 1961,—

(a) income-tax shall be charged at the rates specified in Part I of the First Schedule, and, in the cases to which paragraphs A, B and C of that Part apply, shall be increased by a surcharge for purposes of the Union and a special surcharge, calculated in either case in the manner provided therein, and

(b) super-tax shall, for the purposes of section 55 of the Indian Income-tax Act, 1922 (XI of 1922) (hereinafter referred to as the Income-tax Act), be charged at the rates specified in Part II of the First Schedule, and, in the cases to which paragraphs A, B and C of that Part apply, shall be increased by a surcharge for purposes of the Union and a special surcharge, calculated in either case in the manner provided therein

(2) In making any assessment for the year ending on the 31st day of March, 1962,—

(a) where the total income of an assessee, not being a company, includes any income chargeable under the head “Salaries”, the income-tax payable by the assessee on that part of his total income which consists of such inclusion shall be an amount bearing to the total amount of income-tax payable according to the rates applicable under the operation of the Finance Act, 1960 (XIII of 1960), on his total income the same proportion as the amount of such inclusion bears to his total income,

(b) where the total income of an assessee, not being a company, includes any income chargeable under the head “Salaries”, on which super-tax has been or might have been deducted under the provisions of sub-section (2) of section 18 of the Income-tax Act, the super-tax payable by the assessee on that portion of his total income which consists of such inclusion shall be an amount bearing to the total amount of super-tax payable according to the rates applicable under the operation of the Finance Act, 1960 (XIII of 1960), on his total income the same proportion as the amount of such inclusion bears to his total income

(3) In making any assessment for the year ending on the 31st day of March, 1962, where the total income of a company, other than the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (XXXI of 1956), includes any profits and gains from life insurance business, the super tax payable by it shall be the aggregate of the tax calculated—

(i) on the amount of profits and gains from life insurance business so included, at the rate applicable to the Life Insurance

Corporation of India in accordance with paragraph E of Part II Div 5 of the First Schedule, and A

(11) on the remaining part of its total income, at the rate applicable to the company on its total income

(4) In cases to which section 17 of the Income-tax Act applies the tax chargeable shall be determined as provided in that section and with reference to the rates imposed by sub section (1)

(5) In cases in which tax has to be deducted under section 18 of the Income-tax Act at the prescribed rates, the deduction shall be made at the rates specified in Part III of the First Schedule

(6) For the purposes of this section, and of the rates of tax imposed thereby, the expression "total income" means total income as determined for the purposes of income-tax or super-tax, as the case may be, in accordance with the provisions of the Income-tax Act, and the expression "earned income" has the meaning assigned to it in clause (64A) of section 2 of that Act

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\*

## THE FIRST SCHEDULE

[See section 2]

### PART I

#### *Income-tax and surcharges on income-tax*

#### *Paragraph A*

(1) In the case of every individual who is married and every Hindu undivided family whose total income does not exceed Rs 20,000 in either case —

#### RATES OF INCOME TAX

|                  | Where the individual has no child wholly or mainly dependent on him or where the Hindu undivided family has no minor coparcener | Where the individual has one child wholly or mainly dependent on him or where the Hindu undivided family has one minor coparcener | Where the individual has more than one child wholly or mainly dependent on him or where the Hindu undivided family has more than one minor coparcener |     |
|------------------|---------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------|-----|
|                  | Rs                                                                                                                              | Rs                                                                                                                                | Rs                                                                                                                                                    |     |
|                  | 3,000 of total income                                                                                                           | 3,300 of total income                                                                                                             | 3,600 of total income                                                                                                                                 | Nil |
| (1) On the first |                                                                                                                                 |                                                                                                                                   |                                                                                                                                                       |     |
| (2) On the next  | 2,000 "                                                                                                                         | 1,700 "                                                                                                                           | 1,400 "                                                                                                                                               | 3%  |
| (3) On the next  | 2,500 "                                                                                                                         | 2,500 "                                                                                                                           | 2,500 "                                                                                                                                               | 6%  |
| (4) On the next  | 2,500 "                                                                                                                         | 2,500 "                                                                                                                           | 2,500 "                                                                                                                                               | 8%  |
| (5) On the next  | 2,500 "                                                                                                                         | 2,500 "                                                                                                                           | 2,500 "                                                                                                                                               | 11% |
| (6) On the next  | 2,500 "                                                                                                                         | 2,500 "                                                                                                                           | 2,500 "                                                                                                                                               | 14% |
| (7) On the next  | 5,000 "                                                                                                                         | 5,000 "                                                                                                                           | 5,000 "                                                                                                                                               | 18% |

(11) In the case of every individual who is not married and every individual or Hindu undivided family whose total income in either case exceeds

5 Rs 20,000 and in the case of every unregistered firm or other association of persons, not being a case to which any other paragraph of this Part applies —

|                                    | Rs                    |     |
|------------------------------------|-----------------------|-----|
| (1) On the first                   | 1,000 of total income | Nil |
| (2) On the next                    | 4,000 „               | 3%  |
| (3) On the next                    | 2,500 „               | 6%  |
| (4) On the next                    | 2,500 „               | 9%  |
| (5) On the next                    | 2,500 „               | 11% |
| (6) On the next                    | 2,500 „               | 14% |
| (7) On the next                    | 5,000 „               | 18% |
| (8) On the balance of total income |                       | 25% |

Provided that for the purposes of this paragraph—

- (i) no income-tax shall be payable on a total income which does not exceed the limit specified below,
- (ii) the income tax payable shall in no case exceed half the amount by which the total income exceeds the said limit,
- (iii) the income-tax payable by an individual who is married or a Hindu undivided family whose total income exceeds in either case Rs 20,000 shall not exceed the aggregate of—
  - (a) the income-tax which would have been payable if the total income had been Rs 20,000,
  - (b) half the amount by which the total income exceeds Rs 20,000

The limit aforesaid shall be—

- (i) Rs 6,000 in the case of every Hindu undivided family which as at the end of the previous year satisfies either of the following conditions, namely —
  - (a) that it has at least two members entitled to claim partition who are not less than eighteen years of age, or
  - (b) that it has at least two members entitled to claim partition who are not lineally descended one from the other and who are not lineally descended from any other living member of the family,
- (ii) Rs 3,000 in every other case

#### SURCHARGES ON INCOME-TAX

The amount of income-tax computed at the rates hereinbefore specified shall be increased by the aggregate of the surcharges calculated as under —

- (a) A surcharge for purposes of the Union equal to the sum of—
  - (i) five per cent of the amount of income-tax, and
  - (ii) where the earned income included in the total income exceeds Rs 1,00,000, ten per cent of the difference between the amount of income-tax which would have been payable on the whole of the earned income included in the total income if such earned income had been the total income and the amount of income-tax payable on a total income of Rs 1,00,000,
- (b) A special surcharge at fifteen per cent of the difference between the amount of income-tax on the total income and the amount of income-tax on the whole of the earned income, if any, included in the total income if such earned income had been the total income

Provided that—

- (i) no surcharge for purposes of the Union shall be payable where the total income does not exceed the limit specified below,
- (ii) no special surcharge shall be payable in the case of an assessee whose total income does not include any income from dividend on ordinary shares if his total income does not exceed the limit specified below, and where the total income includes any dividends on ordinary shares, such limit shall be increased by Rs 1,500 or the amount of the said dividends, whichever is less

Provided further that—

- (a) where the total income includes any dividends on ordinary shares, the surcharge for purposes of the Union and the special surcharge shall not in each case exceed half the amount by which the total income exceeds the respective limits applicable in either case,
- (b) the surcharge for purposes of the Union and the special surcharge, both together, shall not exceed half the amount by which the total income exceeds the limit specified below

The limit aforesaid shall be—

- (i) Rs 15,000 in the case of every Hindu undivided family which satisfies as at the end of the previous year either of the following conditions, namely —
  - (a) that it has at least two members entitled to claim partition who are not less than eighteen years of age, or
  - (b) that it has at least two members entitled to claim partition who are not lineally descended one from the other and who are not lineally descended from any other living member of the family,
- (ii) Rs 7,500 in every other case

*Explanation* —For the purposes of this paragraph, in the case of every Hindu undivided family governed by the Mitakshara law, a son shall be deemed to be entitled to claim partition of the coparcenary property against his father or grandfather notwithstanding any custom to the contrary

### Paragraph B

In the case of every local authority,—

#### RATE OF INCOME-TAX

|                                  |   |     |
|----------------------------------|---|-----|
| On the whole of the total income | e | 30% |
|----------------------------------|---|-----|

#### SURCHARGE ON INCOME-TAX

The amount of income-tax computed at the rate hereinbefore specified shall be increased by a surcharge for purposes of the Union of 5 per cent of the amount of income-tax

### Paragraph C

In every case in which under the provisions of the Income-tax Act, income-tax is to be charged at the maximum rate,—

## RATE OF INCOME-TAX

On the whole of the total income 25%

## SURCHARGES ON INCOME-TAX

The amount of income-tax computed at the rate hereinbefore specified shall be increased by the aggregate of the surcharges calculated as under —

- (a) a surcharge for purposes of the Union of five per cent of the amount of income-tax, and
- (b) a special surcharge of fifteen per cent of the amount of income-tax

*Paragraph D*

In the case of every company,—

## RATE OF INCOME-TAX

On the whole of the total income 20%

*Paragraph E*

In the case of every registered firm,—

## RATES OF INCOME-TAX

|                                            |     |
|--------------------------------------------|-----|
| (1) On the first Rs 40,000 of total income | Nil |
| (2) On the next Rs 35,000 of total income  | 5%  |
| (3) On the next Rs 75,000 of total income  | 6%  |
| (4) On the balance of total income         | 9%  |

## PART II

*Super-tax and surcharges on super-tax**Paragraph A*

In the case of every individual, Hindu undivided family, unregistered firm and other association of persons, not being a case to which any other paragraph of this Part applies,—

## RATES OF SUPER-TAX

|                                             |     |
|---------------------------------------------|-----|
| (1) On the first Rs 20,000 of total income, | Nil |
| (2) On the next Rs 5,000 of total income    | 5%  |
| (3) On the next Rs 5,000 of total income    | 15% |
| (4) On the next Rs 10,000 of total income   | 20% |
| (5) On the next Rs 10,000 of total income   | 30% |
| (6) On the next Rs 10,000 of total income   | 35% |
| (7) On the next Rs 10,000 of total income   | 40% |
| (8) On the balance of total income          | 45% |

## SURCHARGES ON SUPER-TAX

The amount of super-tax computed at the rates hereinbefore specified shall be increased by the aggregate of the surcharges calculated as under —

- (a) A surcharge for purposes of the Union equal to the sum of—

- (1) five per cent of the amount of super-tax, and
- (11) where the earned income included in the total income exceeds Rs 1,00,000, ten per cent of the difference between the amount of super-tax which would have been payable on the whole of the earned income included in the total income, if such earned income had been the total income and the amount of super-tax payable on a total income of Rs 1,00,000,
- (b) A special surcharge at fifteen per cent of the difference between the amount of super-tax on the total income and the amount of super-tax on the whole of the earned income, if any, included in the total income, if such earned income had been the total income

*Paragraph B*

In the case of every local authority,—

## RATE OF SUPER-TAX

|                                  |     |
|----------------------------------|-----|
| On the whole of the total income | 16% |
|----------------------------------|-----|

## SURCHARGE ON SUPER-TAX

The amount of super-tax computed at the rate hereinbefore specified shall be increased by a surcharge for purposes of the Union of 12½ per cent of the amount of super-tax

*Paragraph C*

In the case of every association of persons being a co operative society as defined in clause (5B) of section 2 of the Income-tax Act,—

## RATES OF SUPER-TAX

|                                            |     |
|--------------------------------------------|-----|
| (1) On the first Rs 25,000 of total income | Nil |
| (2) On the balance of total income         | 16% |

## SURCHARGE ON SUPER-TAX

The amount of super-tax computed at the rates hereinbefore specified shall be increased by a surcharge for purposes of the Union of 12½ per cent of the amount of super-tax

*Paragraph D*

In the case of every company, other than the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (XXXI of 1956),—

## RATES OF SUPER-TAX

|                                  |     |
|----------------------------------|-----|
| On the whole of the total income | 55% |
|----------------------------------|-----|

Provided that—

- (1) a rebate at the rate of 45 per cent on so much of the total income as consists of dividends from a subsidiary Indian company formed

and registered before the 1st day of April, 1961, at the rate of 40 per cent on so much of the total income as consists of dividends from any other Indian company formed and registered on or after the 1st day of April, 1959, and at the rate of 35 per cent on the balance of the total income shall be allowed in the case of any company which—

- (a) in respect of its profits liable to tax under the Income-tax Act for the year ending on the 31st day of March, 1962, has made the prescribed arrangements for the declaration and payment within India of the dividends payable out of such profits in accordance with the provisions of sub-section (3D) of section 18 of that Act, and
  - (b) is such a company as is referred to in sub-section (9) of section 23A of the Income-tax Act with a total income not exceeding Rs 25,000,
- (11) a rebate at the rate of 45 per cent on so much of the total income as consists of dividends from a subsidiary Indian company formed and registered before the 1st day of April, 1961, at the rate of 35 per cent on so much of the total income as consists of dividends from any other Indian company formed and registered on or after the 1st day of April, 1959, and at the rate of 30 per cent on the balance of the total income shall be allowed in the case of \* [any company which satisfies] condition (a) but not condition (b) of the preceding clause,
- (111) a rebate at the rate of 45 per cent on so much of the total income as consists of dividends from a subsidiary Indian company formed and registered before the 1st day of April, 1961, at the rate of 35 per cent on so much of the total income as consists of dividends from any other Indian company formed and registered on or after the 1st day of April, 1959, at the rate of 25 per cent on so much of the total income as consists of royalties received from an Indian concern in pursuance of an agreement made by it with the Indian concern on or after the 1st day of April, 1961, and which has been approved by the Central Government in this behalf, and at the rate of 12 per cent on the balance of the total income shall be allowed in the case of any company not entitled to a rebate under either of the preceding clauses

Provided further that—

- (1) the amount of the rebate under clause (1) or clause (11) of the preceding proviso shall be reduced by the sum, if any, equal to the amount or the aggregate of the amounts, as the case may be, computed as hereunder —
  - (a) on the aggregate of the sums computed at the rate of 100% in the manner provided in clause (1) of the second proviso to paragraph D of Part II of the First Schedule to the Finance Act, 1960 (XIII of 1960), as reduced by the amount, if any, which is deemed to have been taken into account, in accordance with clause (11) of the said proviso,

\* These words were substituted for "any Indian company which satisfies" by s 14 of the Finance (No 2) Act, 1962, and shall be deemed always to have been in the Act

for the purpose of reducing the rebate mentioned in clause (1) of the said proviso to nil, and

(b) on the amount representing the face value of any bonus shares or the amount of any bonus issued to its shareholders during the previous year with a view to increasing the paid-up capital,

(12) where the sum arrived at in accordance with clause (1) of this proviso exceeds the amount of the rebate arrived at in accordance with clause (1) or clause (12), as the case may be, of the preceding proviso, only so much of the amounts of reduction mentioned in sub-clauses (a) and (b) of clause (1) of this proviso as is sufficient, in that order to reduce the rebate to nil shall be deemed to have been taken into account for the purpose

Provided further that the super-tax payable by a company, the total income of which exceeds rupees twenty-five thousand, shall not exceed the aggregate of—

(a) the super-tax which would have been payable by the company if its total income had been rupees twenty-five thousand, and

(b) half the amount by which its total income exceeds rupees twenty-five thousand

*Explanation* —For the purposes of this paragraph, where any portion of the profits and gains of a company is not included in its total income by reason of such portion being agricultural income the amount representing the face value of any bonus shares and the amount of any bonus issued to its shareholders shall each be deemed to be such proportion thereof as the average of the total income of the company in the five previous years in which the company has been in receipt of taxable income immediately preceding the relevant previous year bears to the average of its total profits and gains (excluding capital receipts) for the preceding five years aforesaid, reduced by such allowances as may be admissible under the Income-tax Act which have not been taken into account by the company in its profit and loss accounts for the preceding five years aforesaid

### *Paragraph E*

In the case of the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (XXXI of 1956),—

#### RATE OF SUPER-TAX

|                                                                    |       |
|--------------------------------------------------------------------|-------|
| On the whole of its profits and gains from life insurance business | 22 5% |
|--------------------------------------------------------------------|-------|

### PART III

#### *Rates for deduction of tax under section 18 of the Income tax Act at the prescribed rates*

In every case in which under the provisions of section 18 of the Income-tax Act, tax is to be deducted at the prescribed rates, deduction shall be made from the income subject to deduction at the following rates —



|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Income tax         |                                     |                   | Super tax                                                                                                                                    |                     |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|-------------------------------------|-------------------|----------------------------------------------------------------------------------------------------------------------------------------------|---------------------|
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Rate of income tax | Rates of surcharges                 |                   | Rate of super tax                                                                                                                            | Rates of surcharges |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                    | Surcharge for purposes of the Union | Special surcharge |                                                                                                                                              |                     |
| 1 In the case of a person other than a company—<br>(a) in every case, on the whole income (excluding interest payable on any security of the Central Government issued or declared to be income tax free), and<br><br>(b) in addition, where the person is one whom the person responsible for paying the income has no reason to believe to be resident in the taxable territories, on the whole income                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | 25%                | 1 25%                               | 3 75%             | Super tax and surcharges on super tax in accordance with the provisions of clause (b) of sub section (1) of section 17 of the Income tax Act |                     |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                    |                                     |                   | Rate of income tax                                                                                                                           | Rate of super tax   |
| 2 In the case of a company—<br>(a) in every case—<br>(i) on the whole income (excluding interest payable on any security of the Central Government issued or declared to be income tax free), and<br>(ii) on the whole income (excluding dividends payable by an Indian company referred to in section 56A of the Income tax Act), and<br>(b) in addition, where the company is neither an Indian company nor a company which has made the prescribed arrangements for the declaration and payment of dividends within India,—<br>(i) on the income from dividends (excluding dividends payable by an Indian company referred to in section 56A of the Income tax Act)—<br>(1) on dividends payable by any of its subsidiary Indian companies formed and registered before the 1st day of April, 1961<br>(2) on dividends payable by any other Indian company formed and registered on or after the 1st day of April, 1959<br>(3) on any other dividends<br>(ii) on the income from royalties payable by an Indian concern in pursuance of an agreement which is made by it with the Indian concern on or after the 1st day of April, 1961, and which has been approved by the Central Government in this behalf<br>(iii) on any other income, not being income from dividends | 20%                |                                     | 10%               | Nil<br><br>10%<br>33%<br><br>20%<br>33%                                                                                                      |                     |

# THE FINANCE (NO 2) ACT, 1962

Div. 5

(Act No XX of 1962)

A

*(Received the assent of the President on the 22nd June, 1962)*

**1 Short title and commencement**—(1) This Act may be called the Finance (No 2) Act, 1962

(2) Save as otherwise provided in this Act, sections 3 to 14 inclusive shall be deemed to have come into force on the 1st day of April, 1962, and sub-section (1) of section 16 and section 18 shall be deemed to have come into force on the 23rd day of April, 1962

**2 Income-tax and super-tax**—(1) Subject to the provisions of sub-sections (2), (3), (4) and (5), for the assessment year commencing on the 1st day of April, 1962,—

- (a) income-tax shall be charged at the rates specified in Part I of the First Schedule, and, in the cases to which paragraphs A, B and C of that Part apply, shall be increased by a surcharge for purposes of the Union and a special surcharge, calculated in either case in the manner provided therein, and
  - (b) super-tax shall, for the purposes of section 95 of the Income-tax Act, 1961 (XLIII of 1961) (hereinafter referred to as the Income-tax Act), be charged at the rates specified in Part II of the First Schedule, and, in the cases to which paragraphs A, B and C of that Part apply, shall be increased by a surcharge for purposes of the Union and a special surcharge, calculated in either case in the manner provided therein
- (2) In making any assessment for the assessment year commencing on the 1st day of April, 1962,—
- (a) where the total income of an assessee, not being a company, includes any income chargeable under the head "Salaries", the income-tax payable by the assessee on that part of his total income which consists of such inclusion shall be an amount bearing to the total amount of income-tax payable according to the rates applicable under the operation of the Finance Act, 1961 (XIV of 1961), on his total income the same proportion as the amount of such inclusion bears to his total income,
  - (b) where the total income of an assessee, not being a company, includes any income chargeable under the head "Salaries" on which super-tax has been or might have been deducted under the provisions of sub-section (2) of section 18 of the Indian Income-tax Act, 1922 (XI of 1922), the super-tax payable by the assessee on that portion of his total income which consists of such inclusion shall be an amount bearing to the total amount of super-tax payable according to the rates applicable under the operation of the Finance Act, 1961 (XIV of 1961), on his total income the same proportion as the amount of such inclusion bears to his total income

(3) In making any assessment for the assessment year commencing on the 1st day of April, 1962, where the total income of a company, other than the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (XXXI of 1956), includes any profits and

gains from life insurance business, the super-tax payable by it shall be the aggregate of the tax calculated—

(i) on the amount of profits and gains from life insurance business so included, at the rate applicable to the Life Insurance Corporation of India in accordance with paragraph E of Part II of the First Schedule, and

(ii) on the remaining part of its total income, at the rate applicable to the company on its total income

(4) In cases to which Chapter XII of the Income-tax Act applies, the tax chargeable shall be determined as provided in that Chapter, and with reference to the rates imposed by sub-section (1) or the rates specified in that Chapter, as the case may be

(5) (i) An assessee being an Indian company or any other company which has made the prescribed arrangements for the declaration and payment of dividends within India or an assessee other than a company, whose total income includes any profits and gains derived from the export of any goods or merchandise out of India, shall be entitled to a deduction, from the amount of income tax and super-tax with which he is chargeable for the assessment year commencing on the 1st day of April, 1962, of an amount equal to the income-tax and super-tax calculated respectively at one-tenth of the average rate of income tax and of the average rate of super-tax on the amount of such profits and gains included in the total income

(ii) The Central Board of Revenue may make rules for computing the amount of such profits and gains

(6) In cases in which tax has to be deducted under sub-section (2) of section 192 and sections 193 to 195 of the Income-tax Act at the rates in force, the deduction shall be made at the rates specified in Part III of the First Schedule

(7) For the purposes of this section, and of the rates of tax imposed thereby—

(i) the expressions “assessment year”, “average rate of income-tax”, “average rate of super-tax” and “partner” have the meanings respectively assigned to them in clauses (9), (10), (11) and (23) of section 2 of the Income-tax Act,

(ii) the expression “total income” means total income as determined for the purposes of income-tax or super-tax, as the case may be, in accordance with the provisions of the said Act, and

(iii) the expression “earned income” means any income of an assessee who is an individual, Hindu undivided family, unregistered firm or other association of persons or body of individuals, whether incorporated or not, not being a company, a local authority, a registered firm or a firm assessed under clause (b) of section 183 of the said Act—

(a) which is chargeable under the head “Salaries”, or

(b) which is chargeable under the head “Profits and gains of business or profession” where the business or profession is carried on by the assessee or, in the case of a firm, where the assessee is a partner actively engaged in the conduct of the business or profession, or

(c) which is chargeable under the head “Income from other sources” if it is immediately derived from personal exertion

or represents a pension or superannuation or other allowance given to the assessee in respect of the past services of any deceased person, and

includes any such income which, though it is the income of another person, is included in the assessee's income under the provisions of the Income-tax Act, 1961 (XLIII of 1961), but does not include any such income on which tax is not payable under clause (iii) or clause (v) of section 86 or clause (i) or clause (ii) of sub-section (1) of section 99 of that Act or which is exempted from tax under a notification issued under section 60 of the Indian Income-tax Act, 1922 (XI of 1922), as continued in force by clause (l) of sub-section (2) of section 297 of the Income-tax Act, 1961 (XLIII of 1961)

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## THE FIRST SCHEDULE

[See section 2]

### PART I

#### *Income-tax and surcharges on income-tax*

#### *Paragraph A*

(i) In the case of every individual who is married and every Hindu undivided family whose total income does not exceed Rs 20,000 in either case —

#### RATES OF INCOME-TAX

|                  | Where the individual has no child wholly or mainly dependent on him or where the Hindu undivided family has no minor coparcener | Where the individual has one child wholly or mainly dependent on him or where the Hindu undivided family has one minor coparcener | Where the individual has more than one child wholly or mainly dependent on him or where the Hindu undivided family has more than one minor coparcener |     |
|------------------|---------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------|-----|
|                  | Rs<br>3,000 of total income                                                                                                     | Rs<br>3,300 of total income                                                                                                       | Rs<br>3,600 of total income                                                                                                                           | Nil |
| (1) On the first |                                                                                                                                 |                                                                                                                                   |                                                                                                                                                       |     |
| (2) On the next  | 2,000 „                                                                                                                         | 1,700 „                                                                                                                           | 1,400 „                                                                                                                                               | 3%  |
| (3) On the next  | 2,500 „                                                                                                                         | 2,500 „                                                                                                                           | 2,500 „                                                                                                                                               | 7%  |
| (4) On the next  | 2,500 „                                                                                                                         | 2,500 „                                                                                                                           | 2,500 „                                                                                                                                               | 10% |
| (5) On the next  | 2,500 „                                                                                                                         | 2,500 „                                                                                                                           | 2,500 „                                                                                                                                               | 12% |
| (6) On the next  | 2,500 „                                                                                                                         | 2,500 „                                                                                                                           | 2,500 „                                                                                                                                               | 15% |
| (7) On the next  | 2,500 „                                                                                                                         | 2,500 „                                                                                                                           | 2,500 „                                                                                                                                               | 20% |
| (8) On the next  | 2,500 „                                                                                                                         | 2,500 „                                                                                                                           | 2,500 „                                                                                                                                               | 23% |

(ii) In the case of every individual who is not married and every individual or Hindu undivided family whose total income in either case exceeds Rs 20,000 and in the case of every unregistered firm or other association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section

2 of the Income tax Act, not being a case to which any other paragraph of this Part applies —

|                                    | Rs                    |     |
|------------------------------------|-----------------------|-----|
| (1) On the first                   | 1,000 of total income | Nil |
| (2) On the next                    | 4,000                 | 3%  |
| (3) On the next                    | 2,500                 | 7%  |
| (4) On the next                    | 2,500                 | 10% |
| (5) On the next                    | 2,500                 | 12% |
| (6) On the next                    | 2,500                 | 15% |
| (7) On the next                    | 2,500                 | 20% |
| (8) On the next                    | 2,500                 | 23% |
| (9) On the balance of total income |                       | 25% |

Provided that for the purposes of this paragraph—

- (i) no income-tax shall be payable on a total income which does not exceed the limit specified below ,
- (ii) the income-tax payable shall in no case exceed half the amount by which the total income exceeds the said limit ,
- (iii) the income-tax payable by an individual who is married or a Hindu undivided family whose total income exceeds in either case Rs 20,000 shall not exceed the aggregate of—
  - (a) the income-tax which would have been payable if the total income had been Rs 20,000 ,
  - (b) half the amount by which the total income exceeds Rs 20,000

The limit aforesaid shall be—

- (i) Rs 6,000 in the case of every Hindu undivided family which as at the end of the previous year satisfies either of the following conditions, namely —
  - (a) that it has at least two members entitled to claim partition who are not less than eighteen years of age , or
  - (b) that it has at least two members entitled to claim partition who are not lineally descended one from the other and who are not lineally descended from any other living member of the family,
- (ii) Rs 3,000 in every other case

#### SURCHARGES ON INCOME TAX

The amount of income-tax computed at the rates hereinbefore specified shall be increased by the aggregate of the surcharges calculated as under —

- (a) A surcharge for purposes of the Union equal to the sum of—
  - (i) two and a half per-cent of the amount of income tax calculated at the average rate of income tax on the income under the head "Salaries" included in the total income ,
  - (ii) five per cent of the amount of income-tax calculated at the average rate of income tax on the total income as reduced by the income under the head "Salaries" included therein , and
  - (iii) where the earned income included in the total income exceeds Rs 1,00,000, ten per cent of the difference between the amount of income-tax which would have been payable on the whole of the earned income included in the total income if such earned income had been the total income and the amount of income-tax payable on a total income of Rs 1,00,000 ,

- (b) A special surcharge at fifteen per cent of the difference between the amount of income-tax on the total income and the amount of income-tax on the whole of the earned income, if any, included in the total income if such earned income had been the total income

Provided that—

- (i) no surcharge for purposes of the Union shall be payable where the total income does not exceed the limit specified below ,
- (ii) no special surcharge shall be payable in the case of an assessee whose total income does not include any income from dividend on ordinary shares if his total income does not exceed the limit specified below, and where the total income includes any dividends on ordinary shares, such limit shall be increased by Rs 1,500 or the amount of the said dividends, whichever is less

Provided further that—

- (a) where the total income includes any dividends on ordinary shares, the surcharge for purposes of the Union and the special surcharge shall not in each case exceed half the amount by which the total income exceeds the respective limits applicable in either case ,
- (b) the surcharge for purposes of the Union and the special surcharge, both together, shall not exceed half the amount by which the total income exceeds the limit specified below

The limit aforesaid shall be—

- (i) Rs 15,000 in the case of every Hindu undivided family which satisfies as at the end of the previous year either of the following conditions, namely —
- (a) that it has at least two members entitled to claim partition who are not less than eighteen years of age , or
- (b) that it has at least two members entitled to claim partition who are not lineally descended one from the other and who are not lineally descended from any other living member of the family,
- (ii) Rs 7,500 in every other case

*Explanation* —For the purposes of this paragraph, in the case of every Hindu undivided family governed by the Mitakshara law, a son shall be deemed to be entitled to claim partition of the coparcenary property against his father or grandfather notwithstanding any custom to the contrary

### *Paragraph B*

In the case of every local authority,—

#### RATE OF INCOME-TAX

On the whole of the total income

30%

#### SURCHARGE ON INCOME-TAX

The amount of income-tax computed at the rate hereinbefore specified shall be increased by a surcharge for purposes of the Union of 5 per cent of the amount of income-tax

### *Paragraph C*

In every case in which under the provisions of the Income-tax Act, income-tax is to be charged at the maximum rate,—

## RATE OF INCOME-TAX

|                                  |   |     |
|----------------------------------|---|-----|
| On the whole of the total income | . | 25% |
|----------------------------------|---|-----|

## SURCHARGES ON INCOME TAX

The amount of income-tax computed at the rate hereinbefore specified shall be increased by the aggregate of the surcharges calculated as under —

- (a) a surcharge for purposes of the Union of five per cent of the amount of income-tax, and
- (b) a special surcharge of fifteen per cent of the amount of income-tax

*Paragraph D*

In the case of every company,—

## RATE OF INCOME-TAX

|                                  |   |     |
|----------------------------------|---|-----|
| On the whole of the total income | . | 25% |
|----------------------------------|---|-----|

*Paragraph E*

In the case of every registered firm,—

## RATES OF INCOME-TAX

|                                            | Where the<br>firm has<br>four or less<br>partners | Where the<br>firm has<br>five or more<br>partners |
|--------------------------------------------|---------------------------------------------------|---------------------------------------------------|
| (1) On the first Rs 25,000 of total income | Nil                                               | Nil                                               |
| (2) On the next Rs 15,000 of total income  | 5%                                                | 7%                                                |
| (3) On the next Rs 20,000 of total income  | 6%                                                | 8%                                                |
| (4) On the next Rs 40,000 of total income  | 7%                                                | 9%                                                |
| (5) On the next Rs 50,000 of total income  | 8%                                                | 10%                                               |
| (6) On the balance of total income         | 10%                                               | 12%                                               |

## PART II

*Super-tax and surcharges on super-tax**Paragraph A*

In the case of every individual, Hindu undivided family, unregistered firm or other association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, not being a case to which any other paragraph of this Part applies,—

## RATES OF SUPER-TAX

|                                            |       |
|--------------------------------------------|-------|
| (1) On the first Rs 20,000 of total income | Nil   |
| (2) On the next Rs 5,000 of total income   | 8%    |
| (3) On the next Rs 5,000 of total income   | 18%   |
| (4) On the next Rs 10,000 of total income  | 22%   |
| (5) On the next Rs 10,000 of total income  | 32%   |
| (6) On the next Rs 10,000 of total income  | 40%   |
| (7) On the next Rs 10,000 of total income  | 45%   |
| (8) On the balance of total income         | 47 5% |

## SURCHARGES ON SUPER-TAX

Div 5

A

The amount of super-tax computed at the rates hereinbefore specified shall be increased by the aggregate of the surcharges calculated as under —

- (a) A surcharge for purposes of the Union equal to the sum of—
- (i) two and a half per cent of the amount of super-tax calculated at the average rate of super-tax on the income under the head "Salaries" included in the total income,
  - (ii) five per cent of the amount of super tax calculated at the average rate of super-tax on the total income as reduced by the income under the head "Salaries" included therein, and
  - (iii) where the earned income included in the total income exceeds Rs 1,00,000, ten per cent of the difference between the amount of super-tax which would have been payable on the whole of the earned income included in the total income, if such earned income had been the total income and the amount of super-tax payable on a total income of Rs 1,00,000,
- (b) A special surcharge at fifteen per cent of the difference between the amount of super-tax on the total income and the amount of super-tax on the whole of the earned income, if any, included in the total income, if such earned income had been the total income

*Paragraph B*

In the case of every local authority,—

## RATE OF SUPER-TAX

|                                  |     |
|----------------------------------|-----|
| On the whole of the total income | 16% |
|----------------------------------|-----|

## SURCHARGE ON SUPER TAX

The amount of super-tax computed at the rate hereinbefore specified shall be increased by a surcharge for purposes of the Union of  $12\frac{1}{2}$  per cent of the amount of super-tax

*Paragraph C*

In the case of every association of persons being a co operative society as defined in clause (19) of section 2 of the Income-tax Act,—

## RATES OF SUPER TAX

|                                            |     |
|--------------------------------------------|-----|
| (1) On the first Rs 25,000 of total income | Nil |
| (2) On the balance of total income         | 16% |

## SURCHARGE ON SUPER TAX

The amount of super-tax computed at the rates hereinbefore specified shall be increased by a surcharge for purposes of the Union of  $12\frac{1}{2}$  per cent of the amount of super-tax

*Paragraph D*

In the case of every company, other than the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (XXXI of 1956),—



## RATES OF SUPER-TAX

On the whole of the total income

55%

Provided that—

- (i) a rebate at the rate of 50 per cent on so much of the total income as consists of dividends from any Indian company, and at the rate of 35 per cent on the balance of the total income shall be allowed in the case of any company which—
  - (a) in respect of its profits liable to tax under the Income-tax Act for the assessment year commencing on the 1st day of April, 1962, has made the prescribed arrangements for the declaration and payment within India of the dividends payable out of such profits in accordance with the provisions of section 194 of that Act, and
  - (b) is such a company as is referred to in section 108 of the Income-tax Act with a total income not exceeding Rs 25,000,
- (ii) a rebate at the rate of 50 per cent on so much of the total income as consists of dividends from a subsidiary Indian company formed and registered before the 1st day of April, 1961, at the rate of 45 per cent on so much of the total income as consists of dividends from any other Indian company, and at the rate of 30 per cent on the balance of the total income shall be allowed in the case of any company which satisfies condition (a) but not condition (b) of the preceding clause,
- (iii) a rebate at the rate of 50 per cent on so much of the total income as consists of dividends from a subsidiary Indian company formed and registered before the 1st day of April, 1961, at the rate of 30 per cent on so much of the total income as consists of dividends from an Indian company, not being a subsidiary company, formed and registered before the 1st day of April, 1959, at the rate of 45 per cent on so much of the total income as consists of dividends from any other Indian company formed and registered on or after the 1st day of April, 1959, at the rate of 30% on so much of the total income as consists of royalties received from an Indian concern in pursuance of an agreement made by it with the Indian concern on or after the 1st day of April, 1961, and which has been approved by the Central Government, and at the rate of 17 per cent on the balance of the total income shall be allowed in the case of any company not entitled to a rebate under either of the preceding clauses

Provided further that—

- (i) the amount of the rebate under clause (i) or clause (ii) of the preceding proviso shall be reduced by the sum, if any, equal to the amount or the aggregate of the amounts, as the case may be, computed as hereunder —
  - (a) on the aggregate of the sums computed in the manner provided in clause (i) of the second proviso to paragraph D of Part II of the First Schedule to the Finance Act, 1961 (XIV of 1961), as reduced by the amount, if any, which is deemed to have been taken into account, in accordance with clause (ii) of the said proviso, for the purpose of reducing the at the rate of 100%

rebate mentioned in clause (i) of the said proviso to nil, and

(b) on the amount representing the face value of any bonus shares or the amount of any bonus issued to its shareholders during the previous year with a view to increasing the paid-up capital,

(ii) where the sum arrived at in accordance with clause (i) of this proviso exceeds the amount of the rebate arrived at in accordance with clause (i) or clause (ii), as the case may be, of the preceding proviso, only so much of the amounts of reduction mentioned in sub clauses (a) and (b) of clause (i) of this proviso as is sufficient, in that order, to reduce the rebate to nil shall be deemed to have been taken into account for the purpose

Provided further that the super-tax payable by a company, the total income of which exceeds rupees twenty-five thousand, shall not exceed the aggregate of—

- (a) the super-tax which would have been payable by the company if its total income had been rupees twenty-five thousand, and
- (b) half the amount by which its total income exceeds rupees twenty five thousand

*Explanation I* —For the purposes of this paragraph, where any portion of the profits and gains of a company is not included in its total income by reason of such portion being agricultural income, the amount representing the face value of any bonus shares and the amount of any bonus issued to its shareholders shall each be deemed to be such proportion thereof as the average of the total income of the company in the five previous years in which the company has been in receipt of taxable income immediately preceding the relevant previous year bears to the average of its total profits and gains (excluding capital receipts) for the preceding five years aforesaid, reduced by such allowances as may be admissible under the Income tax Act which have not been taken into account by the company in its profit and loss accounts for the preceding five years aforesaid

*Explanation II* —For the purposes of this paragraph and Part III of this Schedule, a company shall be deemed to be a subsidiary of another company if that other company holds more than half in nominal value of the equity share capital of the first-mentioned company

### *Paragraph F*

In the case of the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (XXXI of 1956),—

#### RATE OF SUPER-TAX

|                                                                    |       |
|--------------------------------------------------------------------|-------|
| On the whole of its profits and gains from life insurance business | 22 5% |
|--------------------------------------------------------------------|-------|

### PART III

#### *Rates for deduction of tax at source in certain cases*

In every case in which under the provisions of sub-section (2) of section 192 and sections 193 to 195 of the Income-tax Act, tax is to be deducted at the rates in force, deduction shall be made from the income subject to deduction at the following rates —

Div 5  
A

[illegible]

# THE FINANCE ACT, 1963

(Act No XIII of 1963)

Div 5

A

*(Received the assent of the President on the 28th April, 1963 )*

**1 Short title and commencement**—(1) This Act may be called the Finance Act, 1963

(2) Save as otherwise provided in this Act, sections 3, 6, 7, 9, 11, 12, 13 and 21 shall be deemed to have come into force on the 1st day of April, 1963

**2 Income-tax and super-tax**—(1) Subject to the provisions of sub-sections (2), (3), (4) and (5), for the assessment year commencing on the 1st day of April, 1963,—

(a) income-tax shall be charged at the rates specified in Part I of the First Schedule and,—

(i) in the cases to which paragraphs A, B, C and E of that Part apply, shall be increased by a surcharge for purposes of the Union and, except in the cases to which the said paragraph E applies, a special surcharge, calculated in either case in the manner provided therein, and

(ii) in the cases to which paragraphs A and C of the aforesaid Part apply, shall further be increased by an additional surcharge for purposes of the Union (hereinafter referred to as additional surcharge) calculated in the manner provided in the said Schedule,

(b) super-tax shall, for the purposes of section 95 of the Income-tax Act, 1961 (XLIII of 1961) (hereinafter referred to as the Income-tax Act), be charged at the rates specified in Part II of the First Schedule, and, in the cases to which paragraphs A, B and C of that Part apply, shall be increased by a surcharge for purposes of the Union and a special surcharge, calculated in either case in the manner provided therein

(2) In making any assessment for the assessment year commencing on the 1st day of April, 1963,—

(a) where the total income of an assessee, not being a company, includes any income chargeable under the head "Salaries", the income-tax payable by the assessee on that part of his total income which consists of such inclusion shall be an amount bearing to the total amount of income-tax payable according to the rates applicable under the operation of the Finance (No 2) Act, 1962 (XX of 1962), on his total income the same proportion as the amount of such inclusion bears to his total income,

(b) where the total income of an assessee, not being a company, includes any income chargeable under the head "Salaries" on which super-tax has been or might have been deducted under the provisions of sub-section (1) of section 192 of the Income-tax Act, the super-tax payable by the assessee on that portion of his total income which consists of such inclusion shall be an amount bearing to the total amount of super-tax payable according to the rates applicable under the operation of the Finance (No 2) Act, 1962 (XX of 1962), on his total income the same proportion as the amount of such inclusion bears to his total income

(3) In making any assessment for the assessment year commencing on the 1st day of April, 1963, where the total income of a company, other than the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (XXXI of 1956), includes any profits and gains from life insurance business, the super tax payable by it shall be the aggregate of the tax calculated—

- (i) on the amount of profits and gains from life insurance business so included, at the rate applicable to the Life Insurance Corporation of India in accordance with paragraph E of Part II of the First Schedule, and
- (ii) on the remaining part of its total income, at the rate applicable to the company on its total income

(4) (a) In cases to which Chapter XII of the Income-tax Act applies, the tax chargeable shall be determined as provided in that Chapter, and with reference to the rates imposed by sub-section (1) or the rates as specified in that Chapter, as the case may be

(b) In computing under section 209 of the Income-tax Act, the advance tax payable by an assessee, the additional surcharge shall be included

(c) The amount of income-tax to be deducted at source under sub-section (1) of section 192 of the Income-tax Act from income chargeable under the head "Salaries" shall include an additional surcharge equal in amount to the additional surcharge which would have been leviable if the estimated income under that head had been the total income

(5) In respect of any assessment for the assessment year commencing on the 1st day of April, 1963,—

- (i) an assessee being an Indian company or any other company which has made the prescribed arrangements for the declaration and payment of dividends within India or an assessee (other than a company) whose total income includes any profits and gains derived from the export of any goods or merchandise out of India, shall be entitled to a deduction, from the amount of income tax and super tax with which he is chargeable of an amount equal to the income tax and super-tax calculated respectively at one tenth of the average rate of income tax and of the average rate of super-tax on the amount of such profits and gains included in the total income,
- (ii) where an assessee of the type referred to in clause (i) is engaged in the manufacture of any articles in an industry specified in the First Schedule to the Industries (Development and Regulation) Act, 1951 (LXV of 1951), exports after the 28th day of February, 1963, such articles out of India, he shall be entitled, in addition to the deduction of tax referred to in clause (i), to a further deduction from the amount of tax with which he is chargeable for the assessment year of an amount equal to the income-tax and super-tax calculated respectively at the average rate of such taxes on an amount equal to two per cent of the sale proceeds in respect of such export,
- (iii) where an assessee of the type referred to in clause (i) engaged in the manufacture of any articles in an industry specified in the said First Schedule sells after the 28th day of February, 1963, such articles to any other person in India who himself exports them out of India and evidence is produced before the Income tax

Officer of such articles having been so exported, the assessee shall be entitled to a deduction from the amount of income-tax and super-tax with which he is chargeable for the assessment year of an amount equal to the income-tax and super-tax calculated respectively at the average rate of such taxes on a sum equal to two per cent of the sale proceeds receivable by him in respect of such articles from the exporter ,

(iv) the total of the deductions under this sub-section shall in no case exceed the amount of income-tax and super-tax otherwise payable by the assessee ,

(v) nothing contained in clauses (ii) and (iii) shall apply in relation to fuels, textiles (including those dyed, printed or otherwise processed), sugar, vegetable oils and vanaspathi, cement and gypsum products and cigarettes respectively specified in items 2, 23, 25, 28, 35 and 38 of the First Schedule to the Industries (Development and Regulation) Act, 1951 (LXV of 1951), and in relation to such other articles in any other industry specified in that Schedule which may be notified in the Official Gazette by the Central Government having regard to the progress achieved by the industry or any other relevant factors ,

(vi) the amount of any profits and gains derived from the export of any goods or merchandise out of India in respect of which deduction of income-tax and super-tax is admissible under clause (i) shall be computed in accordance with the rules made by the Central Board of Revenue in this behalf

(6) In cases in which tax has to be deducted under sub-section (2) of section 192 and sections 193 to 195 of the Income-tax Act at the rates in force, the deduction shall be made at the rates specified in Part III of the First Schedule

(7) For the purposes of this section, and of the rates of tax imposed thereby, and of section 3—

(i) the expressions “assessment year”, “average rate of income tax”, “average rate of super-tax”, “partner”, “tax” and “total income” have the meanings respectively assigned to them under clauses (9), (10), (11), (23), (43) and (45) of section 2 of the Income tax Act ,

(ii) the expression “earned income” has the same meaning as in section 2 of the Finance (No 2) Act, 1962 (XX of 1962)

(8) For the purposes of paragraphs A and C of Part I of the First Schedule, the expression “residual income” means the amount of the total income as reduced by—

(a) the amount of the capital gains, if any, included therein , and

(b) the amount of tax (exclusive of additional surcharge) which would have been chargeable on such reduced total income if it had been the total income no part of which had been exempt from tax and on no portion of which deduction of tax had been admissible under any provisions of the Income-tax Act or this Act

**3 Additional surcharge not to be taken into account for purposes of deduction, etc**—Notwithstanding anything contained in the provisions of Chapter VII or Chapter VIII-A or section 110 of the Income-tax Act or sub-section (5) of section 2 of this Act, in calculating any relief, rebate or deduction in respect of income-tax payable on the total income of an assessee

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which includes any income on which no income tax is payable or in respect of which a deduction of income tax is admissible under any of the aforesaid provisions, no account shall be taken of the additional surcharge

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## THE FIRST SCHEDULE

[See section 2]

### PART I

#### *Income tax and surcharges on income-tax*

#### *Paragraph A*

(i) In the case of every individual who is married and every Hindu undivided family whose total income does not exceed Rs 20,000 in either case —

#### RATES OF INCOME-TAX

|                  | Where the individual has no child wholly or mainly dependent on him or where the Hindu undivided family has no minor coparcener | Where the individual has one child wholly or mainly dependent on him or where the Hindu undivided family has one minor coparcener | Where the individual has more than one child wholly or mainly dependent on him or where the Hindu undivided family has more than one minor coparcener |     |
|------------------|---------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------|-----|
|                  | Rs<br>3,000 of total income                                                                                                     | Rs<br>3,300 of total income                                                                                                       | Rs<br>3,600 of total income                                                                                                                           | Nil |
| (1) On the first |                                                                                                                                 |                                                                                                                                   |                                                                                                                                                       |     |
| (2) On the next  | 2,000                                                                                                                           | 1,700                                                                                                                             | 1,400                                                                                                                                                 | 3%  |
| (3) On the next  | 2,500                                                                                                                           | 2,500                                                                                                                             | 2,500                                                                                                                                                 | 7%  |
| (4) On the next  | 2,500                                                                                                                           | 2,500                                                                                                                             | 2,500                                                                                                                                                 | 10% |
| (5) On the next  | 2,500                                                                                                                           | 2,500                                                                                                                             | 2,500                                                                                                                                                 | 12% |
| (6) On the next  | 2,500                                                                                                                           | 2,500                                                                                                                             | 2,500                                                                                                                                                 | 15% |
| (7) On the next  | 2,500                                                                                                                           | 2,500                                                                                                                             | 2,500                                                                                                                                                 | 20% |
| (8) On the next  | 2,500                                                                                                                           | 2,500                                                                                                                             | 2,500                                                                                                                                                 | 23% |

(ii) In the case of every individual who is not married and every individual or Hindu undivided family whose total income in either case exceeds Rs 20,000 and in the case of every unregistered firm or other association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (ii) of clause (31) of section 2 of the Income-tax Act, not being a case to which any other paragraph of this Part applies —

|                                    | Rs<br>1,000 of total income | Nil |
|------------------------------------|-----------------------------|-----|
| (1) On the first                   |                             |     |
| (2) On the next                    | 4,000                       | 3%  |
| (3) On the next                    | 2,500                       | 7%  |
| (4) On the next                    | 2,500                       | 10% |
| (5) On the next                    | 2,500                       | 12% |
| (6) On the next                    | 2,500                       | 15% |
| (7) On the next                    | 2,500                       | 20% |
| (8) On the next                    | 2,500                       | 23% |
| (9) On the balance of total income |                             | 25% |

Provided that for the purposes of this paragraph—

- (i) no income-tax shall be payable on a total income which does not exceed the limit specified below,
- (ii) the income-tax payable shall in no case exceed half the amount by which the total income exceeds the said limit,
- (iii) the income-tax payable by an individual who is married or a Hindu undivided family whose total income exceeds in either case Rs 20,000 shall not exceed the aggregate of—
  - (a) the income-tax which would have been payable if the total income had been Rs 20,000,
  - (b) half the amount by which the total income exceeds Rs 20,000

The limit aforesaid shall be—

- (i) Rs 6,000 in the case of every Hindu undivided family which as at the end of the previous year satisfies either of the following conditions, namely —
  - (a) that it has at least two members entitled to claim partition who are not less than eighteen years of age, or
  - (b) that it has at least two members entitled to claim partition who are not lineally descended one from the other and who are not lineally descended from any other living member of the family,
- (ii) Rs 3,000 in every other case

#### SURCHARGES ON INCOME-TAX

The amount of income tax computed at the rates hereinbefore specified shall be increased by the aggregate of the surcharges calculated as under —

- (a) a surcharge for purposes of the Union equal to the sum of—
  - (i) two and a half per cent of the amount of income-tax calculated at the average rate of income-tax on the income under the head "Salaries" included in the total income,
  - (ii) five per cent of the amount of income-tax calculated at the average rate of income-tax on the total income as reduced by the income under the head "Salaries" included therein, and
  - (iii) where the earned income included in the total income exceeds Rs 1,00,000, ten per cent of the difference between the amount of income tax which would have been payable on the whole of the earned income included in the total income if such earned income had been the total income and the amount of income tax payable on a total income of Rs 1,00,000,
- (b) a special surcharge at fifteen per cent of the difference between the amount of income-tax on the total income and the amount of income tax on the whole of the earned income, if any, included in the total income if such earned income had been the total income

Provided that the surcharge for purposes of the Union and the special surcharge, both together, shall not exceed half the amount by which the total income as reduced by the amount of income-tax payable by the assessee exceeds the limit specified below



The limit aforesaid shall be—

- (i) Rs 6,000 in the case of every Hindu undivided family which as at the end of the previous year satisfies either of the following conditions, namely —
  - (a) that it has at least two members entitled to claim partition who are not less than eighteen years of age, or
  - (b) that it has at least two members entitled to claim partition who are not lineally descended one from the other and who are not lineally descended from any other living member of the family,
- (ii) Rs 3,000 in every other case,
- (c) an additional surcharge for purposes of the Union calculated on the amount of the residual income at the following rates, namely —
 

|                                                    |     |
|----------------------------------------------------|-----|
| (i) On the first Rs 6,000 of the residual income   | 4%  |
| (ii) On the next Rs 9,000 of the residual income   | 6%  |
| (iii) On the next Rs 12,000 of the residual income | 8%  |
| (iv) On the next Rs 15,000 of the residual income  | 9%  |
| (v) On the balance of the residual income          | 10% |

Provided that—

- (i) no additional surcharge shall be levied where the residual income does not exceed the limit specified below,
- (ii) the additional surcharge shall in no case exceed the aggregate of the following sums, namely —
  - (a) an amount calculated at three per cent on so much of the amount of residual income as does not exceed the limit specified below,
  - (b) one half of the amount by which the residual income exceeds the limit specified below

The limit aforesaid shall be—

- (i) Rs 6,000 in the case of every Hindu undivided family which as at the end of the previous year satisfies either of the following conditions, namely —
  - (a) that it has at least two members entitled to claim partition who are not less than eighteen years of age, or
  - (b) that it has at least two members entitled to claim partition who are not lineally descended one from the other and who are not lineally descended from any other living member of the family,
- (ii) Rs 3,600 in the case of every individual who has more than one child wholly or mainly dependent on him or in the case of every Hindu undivided family having more than one minor coparcener,
- (iii) Rs 3,300 in the case of every individual who has one child wholly or mainly dependent on him or in the case of every Hindu undivided family having one minor coparcener,
- (iv) Rs 3,000 in every other case

*Explanation* —For the purposes of this paragraph, in the case of every Hindu undivided family governed by the Mitakshara law, a son shall be deemed to be entitled to claim partition of the coparcenary property against his father or grandfather notwithstanding any custom to the contrary

*Paragraph B*

In the case of every local authority,—

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A

## RATE OF INCOME TAX

On the whole of the total income 30%

## SURCHARGE ON INCOME-TAX

The amount of income-tax computed at the rate hereinbefore specified shall be increased by a surcharge for purposes of the Union of five per cent of the amount of income-tax

*Paragraph C*

In every case in which under the provisions of the Income-tax Act, income-tax is to be charged at the maximum rate,—

## RATE OF INCOME-TAX

On the whole of the total income 25%

## SURCHARGES ON INCOME-TAX

The amount of income tax computed at the rate hereinbefore specified shall be increased by the aggregate of the surcharges calculated as under —

- (a) a surcharge for purposes of the Union of five per cent of the amount of income-tax,
- (b) a special surcharge of fifteen per cent of the amount of income tax, and
- (c) an additional surcharge for purposes of the Union calculated on the amount of the residual income at the rates as specified in paragraph A of this Part

*Paragraph D*

In the case of every company,—

## RATE OF INCOME-TAX

On the whole of the total income 25%

*Paragraph E*

In the case of every registered firm,—

## RATES OF INCOME-TAX

|                                            | Where the<br>firm has<br>four or less<br>partners<br>as on the last day of<br>the previous year | Where the<br>firm has<br>five or more<br>partners |
|--------------------------------------------|-------------------------------------------------------------------------------------------------|---------------------------------------------------|
| (1) On the first Rs 25,000 of total income | Nil                                                                                             | Nil                                               |
| (2) On the next Rs 15,000 of total income  | 5%                                                                                              | 7%                                                |
| (3) On the next Rs 20,000 of total income  | 6%                                                                                              | 8%                                                |
| (4) On the next Rs 40,000 of total income  | 7%                                                                                              | 9%                                                |
| (5) On the next Rs 50,000 of total income  | 8%                                                                                              | 10%                                               |
| (6) On the balance of total income         | 10%                                                                                             | 12%                                               |

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## SURCHARGE ON INCOME TAX

The amount of income tax computed at the rates hereinbefore specified shall be increased by a surcharge for purposes of the Union equal to the sum of—

- (i) twenty per cent of the amount of income-tax payable by the firm on its income from any business carried on by it calculated at the rate of income-tax applicable to its total income, and
- (ii) ten per cent of the amount of income tax payable by it on its income from all sources other than from any business carried on by it calculated at the rate of income tax applicable to its total income

## PART II

*Super-tax and surcharges on super tax**Paragraph A*

In the case of every individual, Hindu undivided family, unregistered firm or other association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub clause (vii) of clause (31) of section 2 of the Income-tax Act, not being a case to which any other paragraph of this Part applies,—

## RATES OF SUPER-TAX

|                                            |       |
|--------------------------------------------|-------|
| (1) On the first Rs 20,000 of total income | Nil   |
| (2) On the next Rs 5,000 of total income   | 8%    |
| (3) On the next Rs 5,000 of total income   | 18%   |
| (4) On the next Rs 10,000 of total income  | 22%   |
| (5) On the next Rs 10,000 of total income  | 32%   |
| (6) On the next Rs 10,000 of total income  | 40%   |
| (7) On the next Rs 10,000 of total income  | 45%   |
| (8) On the balance of total income         | 47 5% |

## SURCHARGES ON SUPER-TAX

The amount of super tax computed at the rates hereinbefore specified shall be increased by the aggregate of the surcharges calculated as under —

- (a) A surcharge for purposes of the Union equal to the sum of—

- (i) two and a half per cent of the amount of super-tax calculated at the average rate of super tax on the income under the head "Salaries" included in the total income,
  - (ii) five per cent of the amount of super-tax calculated at the average rate of super-tax on the total income as reduced by the income under the head "Salaries" included therein, and
  - (iii) where the earned income included in the total income exceeds Rs 1,00,000, ten per cent of the difference between the amount of super-tax which would have been payable on the whole of the earned income included in the total income, if such earned income had been the total income and the amount of super-tax payable on a total income of Rs 1,00,000,
- (b) A special surcharge at fifteen per cent of the difference between the amount of super-tax on the total income and the amount of super-tax on the whole of the earned income, if any, included in the total income, if such earned income had been the total income

*Paragraph B*Div 5  
A

In the case of every local authority,—

## RATE OF SUPER TAX

|                                  |     |
|----------------------------------|-----|
| On the whole of the total income | 16% |
|----------------------------------|-----|

## SURCHARGE ON SUPER-TAX

The amount of super-tax computed at the rate hereinbefore specified shall be increased by a surcharge for purposes of the Union of  $12\frac{1}{2}$  per cent of the amount of super-tax

*Paragraph C*

In the case of every association of persons being a co operative society as defined in clause (19) of section 2 of the Income-tax Act,—

## RATES OF SUPER-TAX

|                                            |     |
|--------------------------------------------|-----|
| (1) On the first Rs 25,000 of total income | Nil |
| (2) On the balance of total income         | 16% |

## SURCHARGE ON SUPER-TAX

The amount of super-tax computed at the rates hereinbefore specified shall be increased by a surcharge for purposes of the Union of  $12\frac{1}{2}$  per cent of the amount of super-tax

*Paragraph D*

In the case of every company, other than the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (XXXI of 1956),—

## RATES OF SUPER-TAX

|                                  |     |
|----------------------------------|-----|
| On the whole of the total income | 55% |
|----------------------------------|-----|

Provided that—

- (i) a rebate at the rate of 50 per cent on so much of the total income as consists of dividends from any Indian company, and at the rate of 35 per cent on the balance of the total income shall be allowed in the case of any company which—
  - (a) in respect of its profits liable to tax under the Income-tax Act for the assessment year commencing on the 1st day of April, 1963, has made the prescribed arrangements for the declaration and payment within India of the dividends payable out of such profits in accordance with the provisions of section 194 of that Act, and
  - (b) is such a company as is referred to in section 108 of the Income-tax Act with a total income not exceeding Rs 25,000,
- (ii) a rebate at the rate of 50 per cent on so much of the total income as consists of dividends from a subsidiary Indian company formed and registered before the 1st day of April, 1961, at the rate of 45 per cent on so much of the total income as consists of dividends from any other Indian company, and at the rate of 30 per cent on the balance of the total income shall be allowed in the case of any company which satisfies condition (a) but not condition (b) of the preceding clause,
- (iii) a rebate at the rate of 50 per cent on so much of the total income as consists of dividends from a subsidiary Indian company formed

and registered before the 1st day of April, 1961, at the rate of 30 per cent on so much of the total income as consists of dividends from an Indian company, not being a subsidiary company, formed and registered before the 1st day of April, 1959, at the rate of 45 per cent on so much of the total income as consists of dividends from any other Indian company formed and registered on or after the 1st day of April, 1959 at the rate of 30 per cent on so much of the total income as consists of royalties received from an Indian concern in pursuance of an agreement made by it with the Indian concern on or after the 1st day of April, 1961, and which has been approved by the Central Government, and at the rate of 17 per cent on the balance of the total income shall be allowed in the case of any company not entitled to a rebate under either of the preceding clauses

Provided further that—

- (1) the amount of the rebate under clause (1) or clause (11) of the preceding proviso shall be reduced by the sum, if any, equal to the amount or the aggregate of the amounts, as the case may be, computed as hereunder —
  - (a) on the aggregate of the sums computed at the rate of 100% in the manner provided in clause (1) of the second proviso to paragraph D of Part II of the First Schedule to the Finance (No 2) Act, 1962 (XX of 1962), as reduced by the amount, if any, which is deemed to have been taken into account, in accordance with clause (11) of the said proviso, for the purpose of reducing the rebate mentioned in clause (1) of the said proviso to nil, and
  - (b) on the amount representing the face value at the rate of 12½% of any bonus shares or the amount of any bonus issued to its shareholders during the previous year with a view to increasing the paid-up capital,
- (11) where the sum arrived at in accordance with clause (1) of this proviso exceeds the amount of the rebate arrived at in accordance with clause (1) or clause (11), as the case may be, of the preceding proviso, only so much of the amounts of reduction mentioned in sub-clauses (a) and (b) of clause (1) of this proviso as is sufficient, in that order, to reduce the rebate to nil shall be deemed to have been taken into account for the purpose

Provided further that the super-tax payable by a company, the total income of which exceeds rupees twenty-five thousand, shall not exceed the aggregate of—

- (a) the super-tax which would have been payable by the company if its total income had been rupees twenty-five thousand, and
- (b) half the amount by which its total income exceeds rupees twenty-five thousand

*Explanation I* —For the purposes of this paragraph, where any portion of the profits and gains of a company is not included in its total income by reason of such portion being agricultural income, the amount representing the face value of any bonus shares and the amount of any bonus issued to its

shareholders shall each be deemed to be such proportion thereof as the average of the total income of the company in the five previous years in which the company has been in receipt of taxable income immediately preceding the relevant previous year bears to the average of its total profits and gains (excluding capital receipts) for the preceding five years aforesaid, reduced by such allowances as may be admissible under the Income-tax Act which have not been taken into account by the company in its profit and loss accounts for the preceding five years aforesaid

*Explanation II*—For the purposes of this paragraph and Part III of the Schedule, a company shall be deemed to be a subsidiary of another company if that other company holds more than half in nominal value of the equity share capital of the first-mentioned company

### Paragraph E

In the case of the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (XXXI of 1956),—

### RATE OF SUPER-TAX

On the whole of its profits and gains from life insurance business      22 5%

### PART III

#### *Rates for deduction of tax at source in certain cases*

In every case in which under the provisions of sub-section (2) of section 192 and sections 193 to 195 of the Income-tax Act, tax is to be deducted at the rates in force, deduction shall be made from the income subject to deduction at the following rates —

|                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Income tax         |                                     |                   | Super tax                                                                                                                                     |                     |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|-------------------------------------|-------------------|-----------------------------------------------------------------------------------------------------------------------------------------------|---------------------|
|                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Rate of income tax | Rates of surcharges                 |                   | Rate of super tax                                                                                                                             | Rates of surcharges |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                    | Surcharge for purposes of the Union | Special surcharge |                                                                                                                                               |                     |
| 1 In the case of a person other than a company—<br>(a) in every case, on the whole income (excluding interest payable on any security of the Central Government issued or declared to be income tax free, and interest payable on any security of a State Government issued income tax free, the income tax whereon is payable by the State Government), and<br>(b) in addition, where the person is non resident in India, on the whole income | 25%                | 1 25%                               | 3 75%             | Super tax and surcharges on super tax in accordance with the provisions of clause (b) of sub section (1) of section 113 of the Income tax Act |                     |

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A

|                                                                                                                                                                                                                                                                                           | Rate of<br>income<br>tax | Rate of<br>super-<br>tax |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|--------------------------|
| 2 In the case of a company—                                                                                                                                                                                                                                                               |                          |                          |
| (a) In every case—                                                                                                                                                                                                                                                                        |                          |                          |
| (i) on the whole income (excluding interest payable on any security of the Central Government issued or declared to be income tax free and interest payable on any security of a State Government issued income tax free, the income tax whereon is payable by the State Government), and | 25%                      |                          |
| (ii) on the whole income (excluding dividends payable by an Indian company referred to in clause (iv) of sub section (1) of section 99 of the Income tax Act), and                                                                                                                        |                          | 5%                       |
| (b) in addition, where the company is neither an Indian company nor a company which has made the prescribed arrangements for the declaration and payment of dividends within India,—                                                                                                      |                          |                          |
| (i) on the income from dividends (excluding dividends payable by an Indian company referred to in clause (iv) of sub section (1) of section 99 of the Income tax Act)—                                                                                                                    |                          |                          |
| (1) on dividends payable by any of its subsidiary Indian companies formed and registered before the 1st day of April, 1961                                                                                                                                                                |                          | Nil                      |
| (2) on dividends payable by an Indian company, not being a subsidiary company, formed and registered before the 1st day of April, 1959                                                                                                                                                    |                          | 20%                      |
| (3) on dividends payable by any other Indian company formed and registered on or after the 1st day of April, 1959                                                                                                                                                                         |                          | 5%                       |
| (ii) on the income from royalties payable by an Indian concern in pursuance of an agreement which is made by it with the Indian concern on or after the 1st day of April, 1961, and which has been approved by the Central Government                                                     |                          | 20%                      |
| (iii) on any other income                                                                                                                                                                                                                                                                 |                          | 33%                      |

## B

### THE VOLUNTARY SURRENDER OF SALARIES (EXEMPTION FROM TAXATION) ACT, 1961

(Act No XLVI of 1961)

*(Received the assent of the President on the 6th December, 1961)*

*An Act to provide for exempting from taxes on income a portion of the salary or allowances payable to any person who has in the public interest volunteered to forgo it*

**1 Short title**—This Act may be called the Voluntary Surrender of Salaries (Exemption from Taxation) Act, 1961

**2 Exemption from taxes on income in respect of salaries surrendered in favour of Government**—Notwithstanding anything contained in the Indian Income-tax Act, 1922 (XI of 1922), or in any other law for the time being in force relating to taxation on income, no income-tax or super-tax shall be payable by any person—

(a) where his salary is paid out of the Consolidated Fund of India or of the Consolidated Fund of a State, in respect of that part of the salary due to him for any period after the 31st day of March, 1961, which he has, by a declaration in writing, volunteered to forgo in the public interest,

(b) in any other case, in respect of that part of the salary which is due to him for any period after the 31st day of March, 1961, which has been, in the public interest, surrendered in favour of, and paid to, the Central Government in accordance with the rules made in this behalf by that Government,

and such part of the salary shall not be included in his total income for the purposes of any law relating to taxation on income

**3 Provisions of section 2 to apply to allowances**—The provisions of section 2 shall apply in relation to any allowances due to any such person as is referred to therein for any period after the 31st day of March, 1961, as they apply in relation to his salary

**4 Power to make rules**—(1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act

(2) Every rule made under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days, which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule

**5 Repeal.**—(1) The Voluntary Surrender of Salaries (Exemption from Taxation) Act, 1950 (LXI of 1950), is hereby repealed

(2) Notwithstanding such repeal any declaration made under the said Act shall be deemed to be a declaration made for the purposes of this Act



**DIV 5 THE VOLUNTARY SURRENDER OF SALARIES (EXEMPTION FROM  
B TAXATION) RULES, 1962**

*(Notification No SO 3331, dated the 30th October, 1962)*

In exercise of the powers conferred by section 4, read with clause (b) of section 2 of the Voluntary Surrender of Salaries (Exemption from Taxation) Act, 1961 (XLVI of 1961), the Central Government hereby makes the following rules, namely

**1 Short title**—These rules may be called the Voluntary Surrender of Salaries (Exemption from Taxation) Rules, 1962

**2 Definitions**—In these rules, unless the context otherwise requires,—

- (a) "Act" means the Voluntary Surrender of Salaries (Exemption from Taxation) Act, 1961,
- (b) "due date" means the date on which salary is due to a person,
- (c) "Disbursing Authority" in relation to a person, means the authority responsible for payment of salary to the person,
- (d) "Form" means a form set out in the Schedule to these rules,
- (e) "salary" in relation to a person includes any allowances payable to the person,
- (f) "Income-tax Officer" has the same meaning as in the Income-tax Act, 1961 (XLIII of 1961)

**3 Procedure for surrender of salary**—Any person, other than a person whose salary is paid out of the Consolidated Fund of India or of the Consolidated Fund of a State, desiring to surrender a part of his salary, shall make a declaration in duplicate in Form I, and shall send one copy to the Disbursing Authority so as to reach the Authority before the due date and the other copy to the Income tax Officer having jurisdiction to assess him

**4 Part surrender to be credited to Central Government**—(1) The Disbursing Authority shall, when making payment of salary to any person from whom a declaration under rule 3 has been received, deduct from the salary payable to such person the part thereof covered by the declaration

(2) The Disbursing Authority shall, within seven days from the due date, credit the amount of salary deducted under sub rule (1) to the Central Government These credits will be received at

- (i) the offices of the Reserve Bank of India, Bombay, Calcutta, New Delhi, Madras, Bangalore and Nagpur,
- (ii) branches of the State Bank of India and its subsidiary banks conducting Government Treasury business,
- (iii) Treasuries and sub-treasuries in India other than those at any place referred to in item (i) or at any place where there is a branch of any of the banks referred to in item (ii) and classified under the head "LII—Miscellaneous—Receipts under the Voluntary Surrender of Salaries (Exemption from Taxation) Act, 1961—(Central) "

(3) The Disbursing Authority shall send one copy of the challan evidencing the payment of the amount to the credit of the Central Government to the person making the declaration

(4) The challans referred to in this rule shall be supplied by the Income-tax Officer on request

**5 Annual Return**—The Disbursing Authority shall, before the 31st day of March in each year, deliver or cause to be delivered to the Income-tax Officer referred to in sub-rule (2) of rule 32 of the Income tax Rules, 1962, a return for the year ending on that date in Form II, verified in the manner provided therein

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## SCHEDULE

### FORM I

[See rule 3]

*Form of declaration for surrendering part of salary or allowances*

I hereby declare that I have, in the public interest, voluntarily surrendered in favour of the Central Government the following amounts out of the salary and allowances due to me for the month of \_\_\_\_\_ in the year

\*or for each of the months beginning with the month of \_\_\_\_\_ in the year  
and ending with the month of \_\_\_\_\_ in the year .

Rs                  nP

Amounts surrendered

(1) Out of salary

(11) Out of allowances

The amounts surrendered by me out of the salary or allowances mentioned above should be paid to the credit of the Central Government within seven days of their becoming due to me

Date

Place

*Signature of the employee*

*N B*—A separate declaration in the above form shall be made by the employee for each financial year beginning on the 1st day of April during which such surrender is made and shall be forwarded to the person responsible for paying the salary and allowances, with a copy to the Income tax Officer having jurisdiction to assess the employee before the date on which the salary or allowances of the first month to which the surrender relates, become due

\*Delete the inapplicable words

### FORM II

[See rule 5]

*Return of salary or allowances voluntarily surrendered by the employees during the financial year ended 31st March, 19\_\_\_\_, and paid over to the credit of the Central Government*

Name of employer

Name of person responsible for  
paying the salary or allowances  
(if not the employer)

Address

# C

## THE PREFERENCE SHARES (REGULATION OF DIVIDENDS) ACT, 1960

(Act No LXIII OF 1960)

*(Received the assent of the President on the 28th December, 1960)*

*An Act to regulate dividends on preference shares of certain companies*

**1 Short title and commencement** —(1) This Act may be called the Preference Shares (Regulation of Dividends) Act, 1960

(2) It extends to the whole of India

Provided that it shall not apply to the State of Jammu and Kashmir except to the extent to which the provisions of this Act relate to the regulation of dividends on preference shares of banking and insurance companies and financial corporations

**2. Definitions** —In this Act, unless the context otherwise requires,—

(a) "Companies Act" means the Companies Act, 1956 (I of 1956),

(b) "company" means an Indian company as defined in clause (7A) of section 2 of the Indian Income-tax Act, 1922 (XI of 1922), and includes a company referred to in sub-clause (ii) of clause (5A) of the said section which has made arrangements for the declaration and payment of dividends within India in accordance with the rules made under the said Act,

(c) "preference share" means a share which having been issued and subscribed for before the 1st day of April, 1960, carries, as respects dividends, a preferential right to be paid a fixed amount or an amount calculated at a fixed rate,

(d) "previous year" has the same meaning as in the Indian Income tax Act, 1922 (XI of 1922),

(e) "stipulated dividend", in relation to a preference share, means the fixed amount or the amount calculated at a fixed rate which the holder of such share has a preferential right to be paid as dividend,

(f) all other words and expressions used but not defined in this Act and defined in the Companies Act shall have the meanings respectively assigned to them in that Act

**3 Regulation of dividends on preference shares in certain cases** —

(1) Where the stipulated dividend in respect of a preference share of a company—

(a) is specified to be free of income-tax and no deduction is made therefrom on account of the income-tax payable by the company, or

(b) was being paid before the 1st April, 1960, without any deduction therefrom on account of the income tax payable by the company, notwithstanding the absence of any specification that the dividend would be free of income-tax,

every such share shall, as respects dividends declared after the commencement of this Act, carry a preferential right to be paid without any deduction aforesaid such amount as would exceed the stipulated dividend by thirty per cent thereof

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(2) Where the stipulated dividend in respect of a preference share of a company issued and subscribed for after the 31st March, 1959, is free of income tax and the company, besides paying the stipulated dividend to the holder of such share, pays to Government on his behalf any sum on account of income-tax payable thereon, then, every such share shall, as respects dividends declared after the commencement of this Act, carry a preferential right to be paid free of income tax such amount as together with the sum aforesaid would exceed the stipulated dividend by thirty per cent thereof

(3) Where the stipulated dividend in respect of a preference share of a company—

- (a) is specified to be subject to income tax and a deduction is made therefrom on account of the income tax payable by the company, or
- (b) was being paid before the 1st April, 1960, subject to a deduction therefrom on account of the income tax payable by the company, notwithstanding the absence of any specification that the dividend would be subject to income-tax,

then, every such share shall, as respects dividends declared after the commencement of this Act, carry a preferential right to be paid subject to the deduction aforesaid such amount as would exceed the stipulated dividend by eleven per cent thereof

(4) Where a company has in relation to a preference share declared,—

- (a) after the 31st March, 1959, and before the 1st July, 1960, a dividend in respect of a previous year relevant to its assessment year 1960-61, or a subsequent assessment year, or
- (b) after the 30th June, 1960, and before the commencement of this Act, a dividend in respect of any previous year, it shall declare, in respect of the said previous year, an additional dividend of such amount as, together with the dividend already declared, would exceed the stipulated dividend—
  - (i) by thirty per cent of the stipulated dividend in the cases referred to in sub section (1), or
  - (ii) by eleven per cent of the stipulated dividend in the cases referred to in sub section (3)

(5) For the purposes of sub-section (1), sub section (3) and sub section (4), any reference therein to the stipulated dividend shall, in respect of a preference share issued and subscribed for on or before the 31st March, 1959, be construed as a reference to the stipulated dividend as on that day

(6) For the removal of doubts, it is hereby declared that any reference in this section to deduction made from a dividend "on account of the income tax payable by the company" does not include any amount deducted by the company from that dividend under sub section (3D) of section 18 of the Indian Income-tax Act, 1922 (XI of 1922)

4 Special provisions in relation to companies where a portion of their income is not chargeable to income tax —Where any preference share has been issued by a company any portion of the profits and gains of which in respect of the relevant period is exempt from income tax under the Indian Income tax Act, 1922 (XI of 1922), by reason of such portion being agricultural income, then, for the purpose of the increase in the dividend in relation to any such preference share under the provisions of section 3, the increase of thirty per cent or eleven per cent referred to therein shall be

taken to be such proportion of the said thirty per cent or eleven per cent, as the case may be, as the total amount of the profits and gains of the company excluding the portion of the profits and gains which is so exempt in respect of the relevant period bears to the total amount of the profits and gains thereof in respect of that period

*Explanation*—For the purposes of this section, “relevant period”, in relation to the profits and gains of a company, shall mean—

- (a) the previous years relevant to such of the three assessment years as immediately precede the assessment year ending on the 31st March, 1961, and in each of which the net result of the computation of profits and gains of the company has not been a loss or where there are only two such years, such two years, or where there is only one such year, such one year, or
- (b) in any case where clause (a) is not applicable, the previous year relevant to the assessment year ending on the 31st March, 1961, or a subsequent assessment year immediately following thereafter in which the net result of the computation of profits and gains has not been a loss

**5 Overriding effect of Act**—(1) The provisions of this Act shall have effect notwithstanding anything to the contrary contained in any law for the time being in force or in the memorandum or articles of a company or in any agreement between the company and its shareholders or in any resolution passed by the company in a general meeting or by its board of directors

(2) Notwithstanding anything contained in this Act, a company may, in the manner provided in section 106 of the Companies Act, increase the amount of dividend in respect of a preference share beyond the limit specified in section 3 or section 4 of this Act

**6 Act not to apply to participating preference dividends**—Nothing contained in this Act shall apply to such part of any dividend on preference shares as is referred to in clause (2) of the Explanation to sub-section (1) of section 85 of the Companies Act

**7 Power to make rules**—(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act

(2) Every rule made under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule

## D

### THE BOMBAY REORGANISATION ACT, 1960

(Act No XI of 1960)

*(Received the assent of the President on the 25th April, 1960)*

*An Act to provide for the reorganisation of the State of Bombay and for matters connected therewith*

#### PART I

##### *Preliminary*

1 Short title.—This Act may be called the Bombay Reorganisation Act, 1960

\* \* \*

#### PART VII

##### *Provisions as to certain corporations*

78 Special provision as to income tax.—Where the assets, rights and liabilities of any body corporate carrying on any business are, under the provisions of this Part, transferred to any other bodies corporate which after the transfer carry on the same business, the losses of profits or gains sustained by the body corporate first mentioned which, but for such transfer, would have been allowed to be carried forward and set off in accordance with the provisions of section 24 of the Indian Income-tax Act, 1922 (XI of 1922), shall be apportioned amongst the transferee bodies corporate in accordance with the rules to be made by the Central Government in this behalf, and, upon such apportionment, the share of loss allotted to each transferee body corporate shall be dealt with in accordance with the provisions of section 24 of the said Act, as if the transferee body corporate had itself sustained such loss in a business carried on by it in the years in which the losses were sustained

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# E

## THE PAYMENT OF TAXES (TRANSFER OF PROPERTY) ACT, 1949

(ACT No XXII OF 1949)

*(Received the assent of the Governor-General on the 22nd April, 1949)*

*An Act to make provision for the payment of taxes before transfers of property are registered in certain cases*

WHEREAS it is expedient to make provision for the payment of taxes before transfers of property are registered in certain cases,

It is hereby enacted as follows —

**1 Short title and extent**—(1) This Act may be called the Payment of Taxes (Transfer of Property) Act, 1949

(2) It extends to <sup>1</sup>[the whole of India \* \* \* ]

**2 Application of Act**—This Act shall apply to any person—

(i) who, on account of the setting up of the Dominions of India and Pakistan, or on account of civil disturbances or the fear of such disturbances, leaves or has, since the 14th day of August, 1947, left any place in <sup>2</sup>[India] for any place outside India, or who, since the said date, has been residing in any place outside India, or

(ii) who, in the opinion of any of the Income-tax authorities specified in sub-section (1) of section 5 of the Indian Income tax Act, 1922 (XI of 1922), or a Custodian of Evacuee Property or a Collector, is likely to leave <sup>2</sup>[India] with the intention of settling in any place outside <sup>2</sup>[India], and in respect of whom a declaration that he is a person to whom this Act applies has been received from any such Income tax authority, Custodian of Evacuee Property or Collector by the registering officer of the area in which any property belonging to such person is situate

<sup>3</sup>[\* \* \* ]

**3 Payment of taxes before registration of documents**—(1) Where any document required to be registered under the provisions of clause (a), clause (b), clause (c) or clause (e) of sub section (1) of section 17 of the Indian Registration Act, 1908 (XVI of 1908), purports to transfer, assign, limit or extinguish any right, title or interest in any property, other than agricultural land, belonging to any person to whom this Act applies, no registering officer appointed under the said Act shall register any such document, unless it is certified by the Income-tax Officer of the area in which the property is situate in respect of the person whose right, title or interest in the property is to be

<sup>1</sup>“The whole of India except Part B States” was substituted for “all the provinces of India” by the Adaptation of Laws Order, 1950, “the whole of India except the State of Jammu and Kashmir” was substituted for “the whole of India except Part B States” by the Opium and Revenue Laws (Extension of Application) Act, 1950, “except the State of Jammu and Kashmir” was omitted by s 2 and Schedule of the Taxation Laws (Extension to Jammu and Kashmir) Act, 1954 (41 of 1954)

<sup>2</sup>Substituted for “the States”, *ibid* (41 of 1954), “States” had been substituted for “Provinces of India” by the Adaptation of Laws Order, 1950

<sup>3</sup>The following *Explanation* was omitted, *ibid* (41 of 1954)

“*Explanation*—In this section ‘States’ does not include the State of Jammu and Kashmir”

**Div 5** so transferred, assigned, limited or extinguished under the terms of the document that—

- (a) such person is not liable to assessment or taxation under the Indian Income tax Act, 1922 (XI of 1922), the Excess Profits Tax Act, 1940 (XV of 1940), or the Business Profits Tax Act, 1947 (XXI of 1947), or
- (b) such person has either paid or made satisfactory provision for the payment of all existing or anticipated liabilities under any of the Acts specified in clause (a) of this sub section, or
- (c) the Income tax Officer is otherwise satisfied that the registration of the document will not prejudicially affect the recovery of all existing or anticipated liabilities referred to in clause (b) of this sub section

(2) Every Income tax Officer refusing to issue a certificate under the provisions of sub section (1) shall make an order of refusal and record his reasons therefor and, on application made by any person claiming to be affected by such order, shall, subject to the payment of such fee as may be prescribed, furnish him with a copy of the order

**4 Recovery of taxes where property has been transferred without a certificate**—(1) Where, in respect of the transfer made on or after the seventh day of February, 1948, <sup>4</sup>[in the territories which, immediately before the 1st November, 1956, were comprised in the States] of Bombay, West Bengal, <sup>5</sup>[Punjab], Bihar, Delhi and <sup>6</sup>[Ajmer], and in any <sup>7</sup>[other territory] on or after the date on which the Transfer of Property (India) Ordinance, 1948 (III of 1948), was made applicable to <sup>8</sup>[that territory], of any right, title or interest in any immovable property, other than agricultural land, belonging to any person to whom this Act applies, the Income tax Officer of the area where the property is situate is satisfied, after giving such person notice in this behalf for a period of not less than one month, that no certificate in the terms mentioned in section 3 would have been issued to him if this Act had been in force on the date the transfer was made, he may forward a statement to the Collector showing the existing and anticipated liabilities by way of taxes in respect of all or any of the parties to the transfer

(2) On receipt of any statement under sub section (1), the Collector shall proceed to recover the total amount shown in such statement as if it were an arrear of land revenue, and for the purpose of such recovery proceedings he may treat the property transferred as aforesaid as if it belonged to all or any of the persons named in the statement

**5 Right of appeal**—An appeal shall lie against the order of any Income-tax Officer refusing to issue a certificate under the provisions of sub-section (2) of section 3 to the Commissioner of Income tax to whom the Income-tax Officer is subordinate, if presented to such Commissioner within thirty days from the date of the order, and the Commissioner may pass such orders thereon as he may think fit

<sup>4</sup>Substituted for "in the States" by the Adaptation of Laws (No 3) Order, 1956, with effect from the 1st November, 1956

<sup>5</sup>Substituted for "East Punjab" by the Adaptation of Laws Order, 1950

<sup>6</sup>Substituted for "Ajmer Merwara", *ibid*

<sup>7</sup>Substituted for "other State" by the Adaptation of Laws (No 3) Order, 1956, with effect from the 1st November, 1956

<sup>8</sup>Substituted for "that State", *ibid*, with effect from the 1st November, 1956



# F

## THE GOVERNMENT TRADING TAXATION ACT, 1926

(Act No III of 1926)

*An Act to determine the liability of certain Governments to taxation <sup>1</sup> . . . in respect of trading operations*

WHEREAS it is expedient to determine the liability to taxation for the time being in force <sup>1</sup> . . . of the Government of any part of His Majesty's Dominions, <sup>2</sup> . . . <sup>3</sup> . . . in respect of any trade or business carried on by or on behalf of such Government, it is hereby enacted as follows —

1 Short title and commencement — (1) This Act may be called the Government Trading Taxation Act, 1926

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint

2 Liability of certain Governments to taxation in respect of trading operations — (1) Where a trade or business of any kind is carried on by or on behalf of the Government of any part of His Majesty's Dominions, <sup>2</sup> . . . that Government shall, in respect of the trade or business and of all operations connected therewith, all property occupied in <sup>3</sup> [India] and all goods owned in <sup>5</sup> [India] for the purposes thereof, and all income arising in connection therewith, be liable —

(a) to taxation under the Indian Income tax Act, 1922 (XI of 1922), in the same manner and to the same extent as in the like case a company would be liable,

(b) to all other taxation for the time being in force in <sup>5</sup> [India] in the same manner as in the like case any other person would be liable

(1A) . . . .

(2) For the purposes of the levy and collection of income tax under the Indian Income tax Act, 1922, in accordance with the provisions of sub section (1) any Government to which that sub section applies shall be deemed to be a company within the meaning of that Act, and the provisions of that Act shall apply accordingly

(3) In this section the expression "His Majesty's Dominions" includes any territory which is under His Majesty's protection or in respect of

<sup>1</sup> "In the Provinces of India" omitted by the Adaptation of Laws Order, 1950

<sup>2</sup> "Exclusive of India" omitted, *ibid*

<sup>3</sup> "Or the Government of any Acceding State or other Indian State" omitted by the Opium and Revenue Laws (Extension of Application) Act, 1950 (33 of 1950)

<sup>4</sup> This Act came into force with effect from the 1st April, 1926

<sup>5</sup> "The Provinces" was substituted for "British India" by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948, "Part A States and Part C States" was substituted for "the Provinces" by the Adaptation of Laws Order, 1950, "India" was substituted for "Part A States and Part C States" by the Opium and Revenue Laws (Extension of Application) Act, 1950 (33 of 1950)

<sup>6</sup> Inserted by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948, and omitted by the Opium and Revenue Laws (Extension of Application) Act, 1950 (33 of 1950)

# G

## THE SUPER PROFITS TAX ACT, 1963

(Act No XIV of 1963)

*(Received the assent of the President on the 4th May, 1963)*

*An Act to impose a special tax on certain companies*

**1 Short title and extent**—(1) This Act may be called the Super Profits Tax Act, 1963

(2) It extends to the whole of India

**2 Definitions**—In this Act, unless the context otherwise requires,—

- (1) "assessee" means a person by whom super profits tax or any other sum of money is payable under this Act and includes every person in respect of whom any proceeding under this Act has been taken for the assessment of his chargeable profits or of the amount of refund due to him or of the chargeable profits of any other person in respect of which he is assessable or of the amount of refund due to such other person,
- (2) "assessment" includes reassessment,
- (3) "assessment year" means the period of twelve months commencing on the 1st day of April, every year,
- (4) "Board" means the Central Board of Revenue constituted under the Central Board of Revenue Act, 1924 (IV of 1924),
- (5) "chargeable profits" means the total income of an assessee computed under the Income-tax Act, 1961 (XLIII of 1961), for any previous year or years, as the case may be, and adjusted in accordance with the provisions of the First Schedule,
- (6) "deficiency" in relation to an assessment year means—
  - (i) where there are chargeable profits in respect of the previous year relevant to that assessment year, the amount by which such profits as increased by the sum excluded under clause (xi) or clause (xii), as the case may be, of rule 1 of the First Schedule falls short of the standard deduction,
  - (ii) where there are no chargeable profits in respect of the previous year relevant to that assessment year, the amount of the standard deduction,
- (7) "Income-tax Act" means the Income tax Act, 1961 (XLIII of 1961),
- (8) "prescribed" means prescribed by rules made under this Act,
- (9) "standard deduction" means an amount equal to six per cent of the capital of the company as computed in accordance with the provisions of the Second Schedule, or an amount of fifty thousand rupees, whichever is greater

Provided that where the previous year is longer or shorter than a period of twelve months, the aforesaid amount of six per cent or, as the case may be, of fifty thousand rupees shall be increased or decreased proportionately

Provided further that where a company has different previous years in respect of its income, profits and gains, the aforesaid increase or decrease, as the case may be, shall be calculated with reference to the length of the previous year of the longest duration, and

- (10) all other words and expressions used herein but not defined and defined in the Income tax Act shall have the meanings respectively assigned to them in that Act

**3 Tax authorities**—(1) Every Director of Inspection, Commissioner of Income-tax, Appellate Assistant Commissioner of Income-tax, Inspecting Assistant Commissioner of Income-tax and Income tax Officer shall have the like powers and perform the like functions, under this Act as he has and performs, under the Income-tax Act, and for the exercise of his powers and the performance of his functions, his jurisdiction under this Act will be the same as that he has under the Income-tax Act

(2) All officers and persons employed in the execution of this Act shall observe and follow the orders, instructions and directions of the Board

Provided that no such orders, instructions or directions shall be given so as to interfere with the discretion of the Appellate Assistant Commissioner in the exercise of his appellate functions

(3) Every Income-tax Officer, employed in the execution of this Act, shall observe and follow the orders, instructions and directions issued for his guidance by the Director of Inspection or by the Commissioner or by the Inspecting Assistant Commissioner under whose jurisdiction he performs his functions

**4 Charge of tax**—Subject to the provisions contained in this Act, there shall be charged on every company for every assessment year commencing on and from the 1st day of April, 1963, a tax (in this Act referred to as the super profits tax) in respect of so much of its chargeable profits of the previous year or previous years, as the case may be, as exceed the standard deduction, at the rate or rates specified in the Third Schedule

**5 Relief on occurrence of deficiency**—Where there is a deficiency in relation to any assessment year, the assessee shall be entitled to relief in accordance with the following provisions, namely,—

- (i) the amount of the deficiency shall be carried forward and set off against the net chargeable profits of the assessee assessable for the next following assessment year and, if there are no net chargeable profits for that year or the amount of the deficiency exceeds the net chargeable profits for that year, the whole or the balance of the deficiency, as the case may be, shall be set off against the net chargeable profits of the assessee for the next following assessment year and if and so far as such deficiency cannot be wholly so set off, it shall be set off against the net chargeable profits of the assessee for the next following assessment year,
- (ii) in no case shall the deficiency or any part thereof be carried forward beyond three assessment years immediately following the assessment year to which the deficiency relates,
- (iii) where there is more than one deficiency and each such deficiency relates to a different assessment year, the deficiency which relates to an earlier assessment year shall be set off under

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clause (a) before setting off the deficiency relating to a later assessment year

*Explanation*—In this section and sub-section (1) of section 8, "net chargeable profits" means the amount by which the chargeable profits exceed the standard deduction

**6 Return of chargeable profits**—(1) In the case of every company whose chargeable profits assessable under this Act exceeded during the previous year the amount of standard deduction, its principal officer, or where in the case of a non-resident company any person has been treated as its agent under section 163 of the Income tax Act, such person shall furnish a return of the chargeable profits of the company during the previous year and of the amount of any deficiency available for being set off against such profits under the provisions of this Act, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed, before the 30th day of September of the assessment year

Provided that on an application made in this behalf, the Income-tax Officer may, in his discretion, extend the date for the furnishing of the return

(2) In the case of any company which in the Income tax Officer's opinion is assessable under this Act, the Income-tax Officer may, before the end of the relevant assessment year, serve a notice upon its principal officer, or where in the case of a non-resident company any person has been treated as its agent under section 163 of the Income-tax Act, upon such person requiring him to furnish within thirty days from the date of service of the notice a return of the chargeable profits of the company during the previous year and of the amount of any deficiency available for being set off against such profits under the provisions of this Act, in this prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed

Provided that on an application made in this behalf, the Income tax Officer may, in his discretion, extend the date for the furnishing of the return

(3) Any person who has not furnished a return during the time allowed by the Income tax Officer under sub-section (1) or sub-section (2), or having furnished a return under sub-section (1) or sub-section (2) discovers any omission or wrong statement therein, may furnish a return or a revised return as the case may be, at any time before the assessment is made

**7 Assessments**—(1) For the purposes of making an assessment under this Act, the Income tax Officer may serve on any person who has made a return under sub-section (1) of section 6 or upon whom a notice has been served under sub-section (2) of section 6 (whether a return has been made or not) a notice requiring him on a date thereon to be specified, to produce or cause to be produced such accounts or documents or evidence as the Income-tax Officer may require for the purpose of this Act and may from time to time serve further notices requiring the production of such further accounts or documents or other evidence as he may require

(2) The Income tax Officer, after considering such accounts, documents or evidence, if any, as he has obtained under sub-section (1) and after taking into consideration all the material which he has gathered shall by an order on the basis of such chargeable profits and the amount of the super profits tax payable on the basis of such assessment or, if there is a deficiency, the amount of that deficiency.

## THE SUPER PROFITS TAX ACT, 1963

**8 Provisional assessments**—(1) The Income tax Officer, before proceeding to make an assessment under section 7 (in this section referred to as the regular assessment) may, at any time after the expiry of the period allowed under sub-section (1) or sub-section (2) of section 6 for the furnishing of the return and whether the return has or has not been furnished, proceed to make in a summary manner a provisional assessment of the chargeable profits and the amount of the super profits tax payable thereon.

Provided that in making any such provisional assessment, the Income-tax Officer shall make allowance for any deficiency in relation to any earlier assessment year which under the provisions of this Act is to be set off against the net chargeable profits for the assessment year in respect of which the provisional assessment is being made, and where such deficiency has not been assessed under the provisions of sub-section (2) of section 7, he shall estimate the amount thereof to the best of his judgment.

(2) Before making such provisional assessment, the Income tax Officer shall give notice in the prescribed form to the person on whom the provisional assessment is to be made of his intention to do so, and shall with the notice forward a statement of the amount of the proposed assessment, and the said person shall be entitled to deliver to the Income-tax Officer at any time within fourteen days of the service of the said notice a statement of his objections, if any, to the amount of the proposed assessment.

(3) On expiry of the said fourteen days from the date of service of the notice referred to in sub-section (2), or earlier, if the assessee agrees to the proposed provisional assessment, the Income tax Officer may, after taking into account the objections, if any, made under sub-section (2), make a provisional assessment, and shall furnish a copy of the order of the assessment to the assessee.

Provided that assent to the amount of the provisional assessment, or failure to make objection to it, shall in no way prejudice the assessee in relation to the regular assessment.

(4) There shall be no right of appeal against a provisional assessment made under this section.

(5) After a regular assessment has been made, any amount paid or deemed to have been paid towards the provisional assessment made under this section shall be deemed to have been paid towards the regular assessment, and where the amount paid or deemed to have been paid towards the provisional assessment exceeds the amount payable under the regular assessment, the excess shall be refunded to the assessee.

**9 Profits escaping assessment**—If—

(a) the Income-tax Officer has reason to believe that by reason of the omission or failure on the part of the assessee to make a return under section 6 for any assessment year or to disclose fully and truly all material facts necessary for his assessment for any assessment year, chargeable profits for that year have escaped assessment or have been under-assessed or assessed at too low a rate or have been made the subject of excessive relief under this Act, or

(b) notwithstanding that there has been no omission or failure as mentioned in clause (a) above on the part of the assessee, the Income-tax Officer has in consequence of information in his possession reason to believe that chargeable profits assessable for any assessment year have escaped assessment or have been

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under-assessed or assessed at too low a rate or have been the subject of excessive relief under this Act,

he may, in cases falling under clause (a) at any time, and in cases falling under clause (b) at any time within four years of the end of that assessment year, serve on the assessee a notice containing all or any of the requirements which may be included in a notice under section 6, and may proceed to assess or reassess the amount chargeable to super profits tax, and the provisions of this Act shall, so far as may be, apply as if the notice were a notice issued under that section

**10 Penalties.**—If the Income-tax Officer, in the course of any proceedings under this Act, is satisfied that any person has, without reasonable cause, failed to furnish the return required under section 6, or to produce or cause to be produced the documents, accounts or other evidence required by the Income tax Officer under sub section (1) of section 7, or has concealed the particulars of the chargeable profits or has deliberately furnished inaccurate particulars of such profits, he may direct that such person shall pay, by way of penalty, in addition to the amount of super profits tax payable, a sum not exceeding—

- (a) where the person has failed to furnish the return required under section 6, the amount of super profits tax payable,
- (b) in any other case, the amount of super profits tax which would have been avoided if the return made had been accepted as correct

Provided that the Income-tax Officer shall not impose any penalty under this section without the previous authority of the Inspecting Assistant Commissioner

**11 Opportunity of being heard**—No order imposing a penalty under section 10 shall be made unless the assessee has been given a reasonable opportunity of being heard

**12 Appeals to the Appellate Assistant Commissioner**—(1) Any person objecting to the amount of super profits tax for which he is liable as assessed by the Income tax Officer or denying his liability to be assessed under this Act, or objecting to any penalty or fine imposed by the Income tax Officer, or to the amount of any deficiency as assessed by the Income tax Officer, or to the amount allowed by the Income tax Officer by way of any relief under any provisions of this Act, or to any refusal by the Income tax Officer to grant relief or to an order of rectification or amendment having the effect of enhancing the assessment or reducing the refund, or to an order refusing to allow the claim made by the assessee for a rectification under section 14 or amendment under section 15 may appeal to the Appellate Assistant Commissioner

(2) Every appeal shall be in the prescribed form and shall be verified in the prescribed manner

(3) An appeal shall be presented within thirty days of the following date, that is to say—

- (a) where the appeal relates to assessment or penalty or fine, the date of service of the notice of demand relating to the assessment or penalty or fine, or
- (b) in any other case, the date on which the intimation of the order sought to be appealed against is served

Provided that the Appellate Assistant Commissioner may admit an appeal after the expiration of the said period if he is satisfied that the appellant had sufficient cause for not presenting it within that period

(4) The Appellate Assistant Commissioner shall hear and determine the appeal and, subject to the provisions of this Act, pass such orders as he thinks fit and such orders may include an order enhancing the assessment or a penalty

Provided that an order enhancing an assessment or a penalty shall not be made unless the person affected thereby has been given a reasonable opportunity of showing cause against such enhancement

(5) The procedure to be adopted in the hearing and determination of the appeals shall, with any necessary modification, be in accordance with the procedure applicable in relation to income-tax

**13 Appeals to Appellate Tribunal**—(1) Any assessee aggrieved by an order passed by a Commissioner under section 17, or an order passed by an Appellate Assistant Commissioner under any provisions of this Act, may appeal to the Appellate Tribunal against such order

(2) The Commissioner may, if he objects to any order passed by the Appellate Assistant Commissioner under any provisions of this Act, direct the Income-tax Officer to appeal to the Appellate Tribunal against the order

(3) Every appeal under sub-section (1) or sub section (2) shall be filed within sixty days of the date on which the order sought to be appealed against is communicated to the assessee or to the Commissioner, as the case may be

(4) The Income-tax Officer or the assessee, as the case may be, on receipt of notice that an appeal against the order of the Appellate Assistant Commissioner has been preferred under sub-section (1) or sub-section (2) by the other party may, notwithstanding that he may not have appealed against such order or any part thereof, within thirty days of the receipt of the notice, file a memorandum of cross-objections, verified in the prescribed manner, against any part of the order of the Appellate Assistant Commissioner, and such memorandum shall be disposed of by the Appellate Tribunal as if it were an appeal presented within the time specified in sub section (3)

(5) The Appellate Tribunal may admit an appeal or permit the filing of a memorandum of cross-objections after the expiry of the relevant period referred to in sub-section (3) or sub section (4), if it is satisfied that there was sufficient cause for not presenting it within that period

(6) An appeal to the Appellate Tribunal shall be in the prescribed form and shall be verified in the prescribed manner and, except in the case of an appeal referred to in sub section (2) or a memorandum of cross-objections referred to in sub-section (4), be accompanied by a fee of rupees one hundred

(7) Subject to the provisions of this Act, in hearing and making an order on any appeal under this section, the Appellate Tribunal shall exercise the same powers and follow the same procedure as it exercises and follows in hearing and making an order on any appeal under the Income tax Act

**14 Rectification of mistakes**—(1) With a view to rectifying any mistake apparent from the record, the Commissioner, the Income-tax Officer, the Appellate Assistant Commissioner and the Appellate Tribunal may, of his, or its, own motion or on an application by the assessee in this behalf, amend any order passed by him or it in any proceeding under this Act within four years of the date on which such order was passed

(2) An amendment which has the effect of enhancing the assessment or reducing a refund or otherwise increasing the liability of the assessee shall

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not be made under this section unless the authority concerned has given notice to the assessee of its intention so to do and has allowed the assessee a reasonable opportunity of being heard

(3) Where an amendment is made under this section, the order shall be passed in writing by the authority concerned

(4) Subject to the other provisions of this Act, where any such amendment has the effect of reducing the assessment, the Income-tax Officer shall make any refund which may be due to such assessee

(5) Where any such amendment has the effect of enhancing the assessment or reducing the refund already made, the Income tax Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable

**15 Other amendments**—(1) Where as a result of any order made under section 154 or section 155 of the Income-tax Act, it is necessary to recompute the chargeable profits determined in any assessment under this Act, the Income-tax Officer may proceed to recompute the chargeable profits, and determine the super profits tax payable or refundable on the basis of such recomputation and make the necessary amendment and the provisions of section 14 shall, so far as may be, apply thereto, the period of four years specified in sub section (1) of that section being reckoned from the date of the order passed under the aforesaid sections of the Income-tax Act

(2) Where at any time before the expiry of the five years referred to in sub clause (2) of the proviso to clause (2) of rule 1 of the First Schedule, a company utilises the amount credited by it to the special reserve account under that sub-clause for a purpose other than—

(a) repayment of any moneys borrowed or debt incurred by it for acquisition of capital assets, or

(b) acquisition of capital assets in India for the purposes of its business, or

(c) payment of dividends on its preference share capital of any sum exceeding six per cent of such capital,

the exclusion of ten per cent of the amount of total income originally made under clause (2) of rule 1 of the First Schedule in computing the chargeable profits of the company shall be deemed to have been wrongly made and the Income tax Officer may, notwithstanding anything contained in this Act, recompute the chargeable profits of the assessee for the relevant previous year and make the necessary amendment, and the provisions of section 14 shall, so far as may be, apply thereto, the period of four years specified in sub-section (1) of that section being reckoned from the end of the previous year in which the amount was so utilised

**16 Super profits tax deductible in computing distributable income under Act XLIII of 1961**—Notwithstanding anything contained in clause (2) of section 109 of the Income tax Act, in computing the distributable income of a company for the purposes of sections 104 and 105 of that Act, the super profits tax payable by the company for any assessment year shall be deductible from the total income of the company for that assessment year

**17 Revision of orders prejudicial to revenue**—(1) The Commissioner may call for and examine the record of any proceeding under this Act, and if he considers that any order passed therein by the Income tax Officer is erroneous in so far as it is prejudicial to the interests of the revenue, he may, after giving the assessee an opportunity of being heard and after making or causing to be made such inquiry as he deems necessary, pass such order



thereon as the circumstances of the case justify, including an order enhancing or modifying the assessment, or cancelling the assessment and directing a fresh assessment

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(2) No order shall be made under sub-section (1)—

- (a) to revise an order of reassessment made under section 9, or
- (b) after the expiry of two years from the date of the order sought to be revised

(3) Notwithstanding anything contained in sub-section (2), an order in revision under this section may be passed at any time in the case of an order which has been passed in consequence of, or to give effect to, any finding or direction contained in an order of the Appellate Tribunal, the High Court or the Supreme Court

*Explanation*—In computing the period of limitation for the purposes of sub-section (2), any period during which any proceeding under this section is stayed by an order or injunction of any court shall be excluded

**18 Revision of orders by Commissioner**—(1) The Commissioner may, either of his own motion or on an application by the assessee for revision, call for the record of any proceeding under this Act which has been taken by an Income-tax Officer or Appellate Assistant Commissioner subordinate to him and may make such inquiry or cause such inquiry to be made and, subject to the provisions of this Act, may pass such orders thereon, not being an order prejudicial to the assessee, as he thinks fit

(2) The Commissioner shall not of his own motion revise any order under this section if the order has been made more than one year previously

(3) In the case of an application for revision under this section by the assessee, the application shall be made within one year from the date on which the order in question was communicated to him or the date on which he otherwise came to know of it, whichever is earlier

Provided that the Commissioner may, if he is satisfied that the assessee was prevented by sufficient cause from making the application within that period, admit an application made after the expiry of that period

(4) The Commissioner shall not revise any order under this section in the following cases—

- (a) where an appeal against the order lies to the Appellate Assistant Commissioner or to the Appellate Tribunal but has not been made and the time within which such appeal may be made has not expired, or, in the case of an appeal to the Appellate Tribunal, the assessee has not waived his right of appeal, or
- (b) where the order is pending on an appeal before the Appellate Assistant Commissioner, or
- (c) where the order has been made the subject of an appeal to the Appellate Tribunal

(5) Every application by an assessee for revision under this section shall be accompanied by a fee of twenty-five rupees

*Explanation 1*—An order by the Commissioner declining to interfere shall, for the purposes of this section, be deemed not to be an order prejudicial to the assessee

*Explanation 2*—For the purposes of this section, the Appellate Assistant Commissioner shall be deemed to be an authority subordinate to the Commissioner

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**19 Application of provisions of Act XLIII of 1961**—The provisions of the following sections and Schedules of the Income-tax Act shall apply with such modifications, if any, as may be prescribed, as if the said provisions were provisions of this Act and referred to super profits tax instead of to income-tax and super-tax —

2(44), 131 to 138 (both inclusive), 140, 156, 160, 161, 162, 163, 166, 167, 170, 173, 175, 176, 178, 179, 220 to 229 (both inclusive), 231, 232, 233, 237 to 245 (both inclusive), 254 to 262 (both inclusive), 265 to 269 (both inclusive), 281, 282, 284, 286 to 293 (both inclusive), the Second Schedule and the Third Schedule

Provided that references in the said provisions to the “assessee” shall be construed as references to an assessee as defined in this Act

**20 Income-tax papers to be available for the purposes of this Act**—(1) Notwithstanding anything contained in the Income-tax Act, all information contained in any statement or return made or furnished under the provisions of that Act or obtained or collected for the purposes of that Act may be used for the purposes of this Act

(2) All information contained in any statement or return made or furnished under the provisions of this Act or obtained or collected for the purposes of this Act may be used for the purposes of the Income-tax Act

**21 Failure to deliver returns, etc**—If any person fails without reasonable cause to furnish in due time any return under sub section (2) of section 6 or to produce, or cause to be produced, any accounts or documents required to be produced under section 7, he shall be punishable with fine which may extend to five hundred rupees, and with a further fine which may extend to ten rupees for every day during which the default continues

**22 False statements**—If a person makes in any return required under section 6, any statement which is false, and which he either knows or believes to be false, or does not believe to be true, he shall be punishable with simple imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both

**23 Abetment of false returns, etc**—If a person makes or induces in any manner another person to make and deliver any account, statement or declaration relating to chargeable profits liable to super profits tax which is false and which he either knows to be false or does not believe to be true, he shall be punishable with simple imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both

**24 Institution of proceedings and composition of offences**—(1) A person shall not be proceeded against for an offence under section 21 or section 22 or section 23 or under the Indian Penal Code (XLV of 1860) except at the instance of the Commissioner

(2) The Commissioner may, either before or after the institution of proceedings, compound any offence punishable under section 21 or section 22 or section 23

**25 Power to make exemption, etc, in relation to certain Union territories**—If the Central Government considers it necessary or expedient so to do for avoiding any hardship or anomaly or removing any difficulty that may arise as a result of the application of this Act, to the Union territories of Dadra and Nagar Haveli, Goa, Daman and Diu and Pondicherry, the Central Government may, by general or special order, make an exemption, reduction in rate or other modification in respect of super profits tax in

favour of any class of assessee or in regard to the whole or any part of the chargeable profits of any class of assessee

**26 Power to make rules**—(1) The Board may, subject to the control of the Central Government, by notification in the Official Gazette, make rules for carrying out the purposes of this Act

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters—

- (a) the form in which returns under section 6 may be furnished and the manner in which they may be verified,
- (b) the form in which notice for making provisional assessment shall be given,
- (c) the form in which appeals under section 12 or section 13 may be filed and the manner in which they shall be verified,
- (d) the procedure to be followed on applications for rectification of mistakes and applications for refunds,
- (e) any other matter which by this Act is to be, or may be, prescribed

(3) The Central Government shall cause every rule made under this section to be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days, which may be comprised in one session or in two successive sessions, and, if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, that rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule

**27. Saving**—Nothing contained in this Act shall apply to any company which has no share capital

## THE FIRST SCHEDULE

[See section 2(5)]

### *Rules for computing the chargeable profits*

In computing the chargeable profits of a previous year, the total income computed for that year under the Income-tax Act shall be adjusted as follows—

- 1 Income, profits and gains and other sums falling within the following clauses shall be excluded from such total income, namely—
  - (i) any income chargeable under the Income-tax Act under the head "Capital gains",
  - (ii) any compensation or other payment as is referred to in clause (i) of section 28 of the Income-tax Act,
  - (iii) profits of any business of life insurance,
  - (iv) any income referred to in sub-section (2) of section 41 of the Income-tax Act,
  - (v) the amount of profits and gains derived from an industrial undertaking or hotel, on which under section 84 of the Income-tax Act income-tax is not payable,

- (vi) income chargeable under the Income-tax Act under the head "Interest on securities" derived from any security of the Central Government issued or declared to be income-tax free or from any security of a State Government issued income tax free, the income tax whereon is payable by the State Government,
- (vii) any sum in respect of which a deduction of income-tax is allowed under the provisions of section 88 of the Income tax Act,
- (viii) income by way of dividends from an Indian company or a company which has made the prescribed arrangements for the declaration and payment of dividends within India,
- (ix) income by way of royalties received from Government, or a local authority, or any Indian concern,
- (x) in the case of a non-resident company which has not made the prescribed arrangements for the declaration and payment of dividends within India, its income by way of any interest or fees for rendering technical services received from Government or a local authority or any Indian concern,
- (xi) in the case of a company not being a banking company, a sum equal to ten per cent of the amount of total income computed under the Income-tax Act, as reduced by the amounts referred to in clause (i) or clause (ii) or clause (iii)

Provided that in the case of a company not being a banking company and not being a licensee within the meaning of the Electricity (Supply) Act, 1948 (LIV of 1948), either—

- (i) an equivalent amount is spent during the previous year on the repayment of any moneys borrowed or debt incurred by it for acquisition of capital assets, or on acquisition of any capital assets in India for the purposes of its business, or on the payment of dividends on its preference share capital of any sum exceeding six per cent of such capital, or
- (ii) in so far as the amount, if any, spent during the previous year on the purposes aforesaid falls short of the said ten per cent of the total income so reduced, a sum equal to the amount so fallen short is debited by the company to its profit and loss account of the relevant previous year and credited to a special reserve account to be utilized by it during a period of five years next following only for one or more of the purposes specified in sub clause (i) of this proviso,

*Explanation 1*—If any amount credited to the special reserve account referred to in sub-clause (ii) of the proviso is utilized for any purposes other than the purposes specified in sub clause (i) of the proviso, the exclusion referred to in this clause shall be deemed to have been wrongly made for the purposes of this Act and the provisions of sub section (2) of section 15 shall apply accordingly,

*Explanation 2*—The proviso shall not apply in making any assessment under this Act for the assessment year commencing on the 1st day of April, 1963,

(xii) in the case of a banking company—

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(a) any sum which during the previous year is transferred by it to a reserve fund under sub-section (1) of section 17 of the Banking Companies Act, 1949 (X of 1949), or is deposited by it with the Reserve Bank of India under sub clause (ii) of clause (b) of sub section (2) of section 11 of that Act, not exceeding the amount required under the aforesaid provisions to be so transferred or deposited, as the case may be, or

(b) any sum transferred by it during the previous year to any reserves in India including reserves not shown as such in its published balance sheet in so far as the sums transferred to such reserves are attributable to income chargeable to tax under the Income-tax Act and have not been allowed as a deduction in computing its total income under that Act and in so far as the aggregate of such sums does not exceed the highest of the aggregate of such sums, if any, so transferred during any one of the three years prior to the previous year,

*whichever is higher,*

(xiii) the amount of any deduction from the income tax and super-tax chargeable on the total income allowed under the annual Finance Act in connection with export of any goods or merchandise out of India or the sale by a manufacturer of any articles to any person who exports them out of India

2 The balance of the total income arrived at after making the exclusions mentioned in rule 1, shall be reduced by—

(i) the amount of income-tax and super-tax payable by the company in respect of its total income under the provisions of the Income-tax Act after making allowance for any relief, rebate or deduction in respect of income-tax and super-tax to which the company may be entitled under the provisions of the said Act or the annual Finance Act, and after excluding from such amount—

(a) the amount of income-tax and super-tax payable by the company in respect of the profits and gains of any business of life insurance included in the total income,

(b) the amount of income-tax and super tax payable by the company under the Income-tax Act in respect of any income by way of compensation or other payment referred to in clause (ii) of section 28 of that Act included in the total income,

(c) the amount of income-tax and super-tax payable on any income chargeable under the head "Capital gains" under the Income-tax Act, included in the total income,

(ii) in the case of a company which has been charged to tax in a country outside India on any portion of its income, profits and gains included in its total income as computed under the Income-tax Act, the tax actually paid in respect of such income in the said country in accordance with the laws in force in that country after allowance of every relief due under the said laws

Provided that the aforesaid reduction shall not be allowed unless the assessee produces evidence of the fact of the payment of the aforesaid tax in that country

3 The net amount of income calculated in accordance with rule 2 shall be increased by any expenditure incurred on account of commission, entertainment and advertisement, to the extent such expenditure, in the opinion of the Income tax Officer, is excessive having regard to the circumstances of the case

Provided that the previous authority of the Inspecting Assistant Commissioner is obtained for holding such expenditure to be excessive

## THE SECOND SCHEDULE

[Sec section 2(9)]

*Rules for computing the capital of a company for the purposes of super profits tax*

1 Subject to the other provisions contained in this Schedule, the capital of a company shall be the sum of the amounts, as on the first day of the previous year relevant to the assessment year, of its paid-up share capital and of its reserve, if any, created under the proviso (b) to clause (ii) of sub-section (2) of section 10 of the Indian Income tax Act, 1922 (XI of 1922), or under sub section (3) of section 34 of the Income tax Act, 1961 (XLIII of 1961), and of its other reserves in so far as the amounts credited to such other reserves have not been allowed in computing its profits for the purposes of the Indian Income-tax Act, 1922 (XI of 1922), or the Income tax Act, 1961 (XLIII of 1961), diminished by the amount by which the cost to it of the assets the income from which in accordance with clause (iii) or clause (ii) or clause (viii) of rule 1 of the First Schedule is not includible in its chargeable profits, exceeds the aggregate of—

- (i) any money borrowed by it which remains outstanding, and
- (ii) the amount of any fund, any surplus and any such reserve as is not to be taken into account in computing the capital under this rule

*Explanation 1*—A paid-up share capital or reserve brought into existence by creating or increasing (by revaluation or otherwise) any book asset is not capital for computing the capital of a company for the purposes of this Act

*Explanation 2*—Any premium received in cash by the company on the issue of its shares standing to the credit of the share premium account shall be regarded as forming part of its paid-up share capital

*Explanation 3*—Where a company has different previous years in respect of its income, profits and gains, the computation of capital under rule 1 and rule 2 of this Schedule shall be made with reference to the previous year which commenced first

2 Where after the first day of the previous year relevant to the assessment year, the paid-up share capital of a company is increased or reduced by any amount during that previous year, the capital computed in accordance with rule 1 shall be increased or decreased, as the case may be, by a portion of that amount which is proportional to the portion of the previous year during which the increase or the reduction of the paid-up share capital remained effective

3 Where a part of the income, profits and gains of a company is not includible in its total income as computed under the Income-tax Act, its

capital shall be the sum ascertained in accordance with rules 1 and 2, diminished by an amount which bears to that sum the same proportion as the amount of the aforesaid income, profits and gains bears to the total amount of its income, profits and gains Div 5  
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### THE THIRD SCHEDULE

[See section 4]

#### *Rates of super profits tax*

Super profits tax shall be charged on the amount by which the chargeable profits exceed the amount of the standard deduction, at the following rates, namely —

- |                                                                                                                            |     |
|----------------------------------------------------------------------------------------------------------------------------|-----|
| (i) on an amount not exceeding four per cent of the amount of capital as computed in accordance with the Second Schedule , | 50% |
| (ii) on the balance                                                                                                        | 60% |

## THE SUPER PROFITS TAX RULES, 1963

(Notification No S O 2440, dated the 22nd August, 1963)

In exercise of the powers conferred by section 26 of the Super Profits Tax Act, 1963 (XIV of 1963) and all other powers enabling it in this behalf, the Central Board of Revenue hereby makes the following rules, namely —

1 Short title —These rules may be called the Super Profits Tax Rules, 1963

2 Definitions —(1) In these rules, unless the context otherwise requires,—

- (i) “the Act” means the Super Profits Tax Act, 1963 (XIV of 1963) ,
- (ii) “applied section” means a section of the Income tax Act, 1961 (XLIII of 1961), as applied by section 19 of the Act and rule 3 ,
- (iii) “the applied Second Schedule” means the Second Schedule of the Income tax Act, 1961, as applied by section 19 of the Act and rule 3 ,
- (iv) “the applied Third Schedule” means the Third Schedule of the Income tax Act, 1961, as applied by section 19 of the Act and rule 3 ,
- (v) in the applied sections and in the applied Second Schedule, “the Act” means the Super Profits Tax Act, 1963 (XIV of 1963)

(2) All references to “Forms” in these rules shall be construed as references to the forms set out in the Appendix hereto

3 Adaptations of Income-tax Act, 1961 —The provisions of sections 2 (44), 131 to 138 (both inclusive), 140, 156, 160, 161, 162, 163, 166, 167, 170, 173, 175, 176, 178, 179, 220 to 229 (both inclusive), 231, 232, 233, 237 to 245 (both inclusive), 254 to 262 (both inclusive), 265 to 269 (both inclusive), 281, 282, 284, 286 to 293 (both inclusive), the Second Schedule and the Third Schedule of the Income-tax Act, 1961 (XLIII of 1961), shall apply with the following modifications, namely —

*General modifications* —(i) All references to “this Act”, except those in clause (vii) of sub-section (2), sub section (3) and clause (b) of sub section (4) of section 288, shall be construed as references to “the Act” ,

(ii) All references to “income-tax”, except those,—

- (a) in the expressions “Income tax Officer” and “Income-tax Act”, wherever they occur ,
- (b) in the expression “Income-tax Department” occurring in clause (vii) of sub section (3) of section 137 ,
- (c) in the expression “Income tax practitioner” occurring in the clause (vii) of sub section (2) of section 288 ,
- (d) in the expression “Income-tax authority” occurring in sub-section (3) of section 288 , and
- (e) in the expressions “Income-tax proceeding” and “Income-tax proceedings” occurring respectively in clause (b) of sub section (4) and clause (b) of sub section (5) of section 288 ,

shall be construed as references to “super profits tax”

(iii) All references to “tax” except those in clause (xii) and clause (xiii) of sub section (2) of section 137, shall be construed as references to



*Modification of section 131* —(iv) In section 131, in sub section (2), for the words, figures and letter "Chapter XVII-D", the words, figures and brackets "the applied sections 220 to 229 (both inclusive), 231 and 232 and the applied Second Schedule and the applied Third Schedule" shall be substituted. Div. 5  
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*Modification of section 133* —(i) In section 133, clauses (1), (2) and (3) shall be omitted

*Modification of section 137* — (ii) In section 137,—

- (a) in sub section (1), for the word and figures "Chapter XXII", the word and figures "sections 21, 22, 23 and 24 of the Act" shall be substituted,
- (b) in sub section (3), in clause (xi), for the word and figures "section 90", the words and figures "section 90 of the Income tax Act" shall be substituted,
- (c) sub section (4) shall be omitted,
- (d) in the *Explanation*, for the words, brackets and figures "sub-section (1), (2) and (4)", the words, brackets and figures "sub-sections (1) and (2)" shall be substituted

*Modification of section 138* —(iii) In section 138,—

- (a) for the words "either under this Act or the Indian Income-tax Act, 1922, on or after the 1st day of April, 1960", the words "under the Act" shall be substituted,
- (b) for the word and figures "section 137", the words and figures "the applied section 137" shall be substituted

*Modification of section 140* —(iii) For section 140, the following section shall be substituted, namely —

"140. *Return by whom to be signed* —The return under section 6 of the Act shall be signed and verified by the principal officer of the company, or where in the case of a non resident company any person has been treated as its agent under section 163 of the Income tax Act, by such person "

*Modification of section 160* —(ix) In section 160, in sub section (1),—

- (a) in clause (i),
  - (i) for the words, brackets and figures "in respect of the income of a non resident specified in clause (i) of sub section (1) of section 9", the words, brackets and figures "in respect of the chargeable profits relating to the income of a non-resident specified in clause (i) of sub section (1) of section 9 of the Income tax Act" shall be substituted,
  - (ii) for the word and figures "section 163", the words and figures "section 163 of the Income tax Act" shall be substituted,
- (b) clauses (ii) and (iii) shall be omitted,
- (c) In clause (iii),—
  - (i) for the word "income", the words "chargeable profits" shall be substituted,
  - (ii) the words "the Court of Wards, the Administrator General, the Official Trustee or" and the words "Court of Wards, Administrator General, Official Trustee", shall be omitted

*Modification of section 161 —(x)* In section 161,—

- (a) for the word "income", wherever it occurs, the words "chargeable profits" shall be substituted ,
- (b) for the words "this Chapter", wherever they occur, the words, brackets and figures "sub-section (2) of this section and the applied sections 160, 162, 163, 166, 167, 170, 173, 175, 176, 178 and 179" shall be substituted ,
- (c) in sub section (1), for the words "in respect of that", the words "in respect of such" shall be substituted

*Modification of section 162 —(xi)* In section 162, in sub section (2), for the words "this Chapter", the words, brackets and figures "the applied sections 160 to 163 (both inclusive), 166, 167, 170, 173, 175, 176, 178 and 179" shall be substituted

*Modification of section 166 —(xii)* For section 166, the following section shall be substituted, namely —

*"166 Direct assessment or recovery not barred —*Nothing in the applied sections 160 to 163 (both inclusive) shall prevent either the direct assessment of the company on behalf of which or for the benefit of which chargeable profits therein referred to are receivable, or the recovery from such company of the tax payable in respect of such chargeable profits"

*Modification of section 170 —(xiii)* In section 170,—

- (a) the words "or profession", wherever they occur, shall be omitted ,
- (b) for the word "income", wherever it occurs, the words "chargeable profits" shall be substituted ,
- (c) sub section (4) and the *Explanation* shall be omitted

*Modification of section 173 —(xiv)* For section 173, the following section shall be substituted, namely —

*"173 Recovery of tax in respect of non-resident from his assets —*Without prejudice to the provisions of sub section (1) of the applied section 161 or of the applied section 167, where the person entitled to the chargeable profits relating to the income referred to in clause (i) of sub section (1) of section 9 of the Income-tax Act is a non-resident, the tax chargeable thereon, whether in his name or in the name of his agent who is liable as a representative assessee, may be recovered in accordance with the provisions of the applied sections 220 to 229 (both inclusive), 231 and 232 and the applied Second Schedule, and the applied Third Schedule from any assets of the non-resident which are, or, may at any time come, within India "

*Modification of section 175 —(xv)* For section 175, the following section shall be substituted, namely —

*"175 Assessment of persons likely to transfer property to avoid tax —(1)* Notwithstanding anything contained in section 4 of the Act, if it appears to the Income tax Officer during any current assessment year that any person is likely to charge, sell, transfer, dispose of or otherwise part with any of his assets with a view to avoiding payment of any liability under the provisions of the Act, the chargeable profits of such person for the period from the expiry of the previous year for that assessment year to the date when the Income tax Officer commences proceedings under this section shall be chargeable to tax in that assessment year

(2) The chargeable profits of each completed previous year or part of any previous year included in such period shall be chargeable to tax

at the rate or rates in force in that assessment year, and separate assessments shall be made in respect of each such completed previous year or part of any previous year

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(3) The Income tax Officer may estimate the chargeable profits of such person for such period or any part thereof, where such profits cannot be readily determined in the manner provided in the Act

(4) For the purposes of making an assessment under sub-section (1), the Income-tax Officer may serve a notice upon such person requiring him to furnish, within such time, not being less than seven days, as may be specified in the notice, a return in the same form and verified in the same manner as a return under sub section (2) of section 6 of the Act, setting forth the chargeable profits for each completed previous year comprised in the period referred to in sub section (1) and his estimated chargeable profits for any part of the previous year comprised in that period, and the provisions of the Act shall, so far as may be, and subject to the provisions of this section, apply as if the notice were issued under sub section (2) of section 6 of the Act

(5) The tax chargeable under this section shall be in addition to the tax, if any, chargeable under any other provision of the Act

(6) Where the provisions of sub section (1) are applicable, any notice issued by the Income-tax Officer under sub section (2) of section 6 or section 9 of the Act in respect of any tax chargeable under any other provision of the Act may, notwithstanding anything contained in sub section (2) of section 6 or section 9 of the Act, as the case may be, require the furnishing of the return by such person within such period, not being less than seven days, as the Income tax Officer may think proper "

*Modification of section 176 — (xvi) In section 176,—*

(a) in sub-section (1),—

(i) for the word and figure "section 4", the words and figure "section 4 of the Act" shall be substituted ,

(ii) the words "or profession" shall be omitted ,

(iii) for the word "income", the words "chargeable profits" shall be substituted ,

(b) in sub section (2), for the words "total income", the words "chargeable profits" shall be substituted ,

(c) in sub section (3), the words "or profession" shall be omitted ,

(d) sub-section (4) shall be omitted ,

(e) for sub section (5), the following sub section shall be substituted, namely —

"(5) Where an assessment is to be made under the provisions of this section, the Income-tax Officer may serve on the principal officer of the company, or where in the case of a non resident company any person has been treated as its agent under section 163 of the Income-tax Act, on such person, a notice containing all or any of the requirements which may be included in a notice under sub section (2) of section 6 of the Act and the provisions of the Act shall, so far as may be, apply accordingly as if the notice were a notice issued under sub-section (2) of section 6 of the Act "

- (f) in sub section (7), for the words, brackets and figures "sub section (2) of section 139 or sub section (1) of section 148", wherever they occur, the words, brackets and figures "sub section (2) of section 6 or section 9 of the Act" shall be substituted

*Modification of section 178 —(xvii)* In section 178, in sub section (1), for the word "income", the words "chargeable profits" shall be substituted

*Modification of section 179 —(xviii)* In section 179, for the word "income", the words "chargeable profits" shall be substituted

*Modification of section 220 —(xix)* In section 220,—

- (a) in sub section (1), for the words and figures "Any amount, otherwise than by way of advance tax, specified as payable in a notice of demand under section 156", the words and figures "Any amount specified as payable in a notice of demand under the applied section 156" shall be substituted,
- (b) in sub section (2),—
  - (i) for the word and figures "section 156", the words and figures "the applied section 156" shall be substituted,
  - (ii) in the proviso, for the words and figures "section 154, or section 155, or section 250, or section 254, or section 260, or section 262, or section 264", the words and figures "section 12 or section 14 or section 15 or section 18 of the Act, or the applied section 254, or the applied section 260, or the applied section 262" shall be substituted,
- (c) in sub section (6), for the word and figures "section 246", the words and figures "section 12 of the Act" shall be substituted,
- (d) in sub section (7),—
  - (i) for the words "in respect of income", the words "in respect of chargeable profits relating to income" shall be substituted,
  - (ii) for the words "which is due in respect of that amount of his income", the words "which is due in respect of that amount of his chargeable profits that relate to income" shall be substituted

*Modification of section 221 —(xx)* In section 221, in sub section (1), for the word and figures "section 220", the words and figures "the applied section 220" shall be substituted

*Modification of section 222 —(xxi)* In section 222, in sub section (1), for the words "the Second Schedule", the words "the applied Second Schedule" shall be substituted

*Modification of section 223 —(xxii)* In section 223,—

- (a) in sub section (1),—
  - (i) for the word and figures "section 222" the words and figures "the applied section 222" shall be substituted,
  - (ii) in clause (a), the words "or profession", wherever they occur, shall be omitted
- (b) in sub section (2), for the words "this Chapter", the words and figures "the applied sections 222, 224 and 225 and the applied Second Schedule" shall be substituted

*Modification of section 224 —(xxiii)* In section 224,—

- (a) in sub section (1), for the word and figures "section 222", the words and figures "the applied section 222" shall be substituted,
- (b) in sub-section (3), for the word and figures "section 225", the words and figures "the applied section 225" shall be substituted

*Modification of section 226 —(xxiv)* In section 226,—

- (a) in sub section (1), for the word and figures "section 222", the words and figures "the applied section 222" shall be substituted,
- (b) sub section (2), shall be omitted,
- (c) in sub-section (3), in clause (x),—
  - (i) for the words and figures "section 222 to 225", the words and figures "the applied sections 222 to 225 and the applied Second Schedule" shall be substituted,
  - (ii) for the word and figures "section 222", the words and figures "the applied section 222" shall be substituted,
- (d) in sub-section (5), for the words "the Third Schedule", the words "the applied Third Schedule" shall be substituted

*Modification of section 228 —(xxv)* In section 228, in sub section (1), for the word and figures "section 222", the words and figures "the applied section 222" shall be substituted

*Modification of section 229 —(xxvi)* In section 229, for the words "this Chapter", the words, brackets and figures "the applied sections 220 to 228 (both inclusive), 231 and 232 and the applied Second Schedule and the applied Third Schedule" shall be substituted

*Modification of section 231 —(xxvii)* In section 231,—

- (a) for the word and figures "section 173" the words and figures "the applied section 173" shall be substituted,
- (b) for the word and figures "section 220", wherever they occur, the words and figures "the applied section 220" shall be substituted

*Modification of section 232 —(xxviii)* In section 232, for the words "this Chapter", wherever they occur, the words, brackets and figures "the applied sections 220 to 229 (both inclusive), 231 and 233 and the applied Second Schedule and the applied Third Schedule" shall be substituted

*Modification of section 233 —(xxix)* In section 233,—

- (a) for the word and figures "section 220", the words and figures "the applied section 220" shall be substituted,
- (b) for the words and figures "section 221 to 229", the words and figures "the applied sections 221 to 229 and the applied Second Schedule and the applied Third Schedule" shall be substituted,
- (c) for the word and figures "section 141", the words and figure "section 8 of the Act" shall be substituted,
- (d) for the words and figures "section 143 or section 144", the words and figure "section 7 of the Act" shall be substituted

*Modification of section 238 —(xxx)* In section 238, sub-section (1) shall be omitted

*Modification of section 239 —(xxxi)* In section 239,—

- (a) in sub-section (1), for the words "this Chapter", the words and figures "the applied section 237" shall be substituted,

- (b) in sub section (2), for the words "income in respect of which the claim is made was assessable", the words "chargeable profits in respect of which the claim is made were assessable" shall be substituted

*Modification of section 242*—(xxxii) In section 242, for the words "this Chapter", the words and figures "the applied section 237" shall be substituted

*Modification of section 243*—(xxxiii) In section 243, for sub-section (1), the following sub section shall be substituted, namely —

"(1) If the Income tax Officer does not grant the refund within six months from the date on which the claim for refund is made under the applied section 237, the Central Government shall pay the assessee simple interest at four per cent per annum on the amount directed to be refunded from the date immediately following the expiry of the period of six months aforesaid to the date on which the refund is granted "

*Explanation*—If the delay in granting the refund within the period of six months aforesaid is attributable to the assessee, whether wholly or in part, the period of the delay attributable to him shall be excluded from the period for which interest is payable "

*Modification of section 244*—(xxxiv) In section 244,—

- (a) in sub section (1), for the word and figures "section 240", the words and figures "the applied section 240" shall be substituted ,
- (b) in sub section (2), for the word and figures "section 241", wherever they occur, the words and figures "the applied section 241" shall be substituted

*Modification of section 254*—(xxxv) In section 254,—

- (a) sub section (2) shall be omitted ,
- (b) in sub section (4), for the word and figures "section 256", the words and figures "the applied section 256" shall be substituted

*Modification of section 255*—(xxxvi) In section 255,—

- (a) in sub-section (3), for the words "whose total income as computed by the Income-tax Officer in the case does not exceed twenty-five thousand rupees", the words "whose chargeable profits as computed by the Income-tax Officer in the case do not exceed seventy-five thousand rupees" shall be substituted ,
- (b) in sub section (6), for the word and figures "section 131", the words and figures "the applied section 131" shall be substituted

*Modification of section 256*—(xxxvii) In section 256, in sub-section (1), for the word and figures "section 254 ", the words and figures "the applied section 254 " shall be substituted

*Modification of section 257*—(xxxviii) In section 257, for the word and figures "section 256 ", the words and figures "the applied section 256 " shall be substituted

*Modification of section 259*—(xxxix) In section 259, for the word and figures "section 256 ", the words and figures "the applied section 256 " shall be substituted

*Modification of section 261*—(xl) In section 261, for the word and figures "section 256 ", the words and figures "the applied section 256 " shall be substituted

*Modification of section 262 —(xli) In section 262,—*

(a) in sub section (1),—

(i) for the word and figures “section 261”, the words and figures “the applied section 261” shall be substituted,

(ii) in the proviso, for the words and figures “section 260 or sub section 265”, the words and figures “the applied section 260 or the applied section 265” shall be substituted,

(b) in sub section (3), for the word and figures “section 260”, the words and figures “the applied section 260” shall be substituted

*Modification of section 269 —(xlii) In section 269, for the words “this chapter”, the words, figures and brackets “the applied sections 256 to 262 (both inclusive) and the applied sections 265 to 268 (both inclusive)” shall be substituted*

*Modification of section 284 —(xliii) For section 284, the following section shall be substituted, namely —*

“284 *Service of notice in the case of discontinued business* —Where an assessment is to be made under the applied section 176, the Income tax Officer may serve on the principal officer of the company, or where in the case of a non resident company any person has been treated as its agent under section 163 of the Income-tax Act, on such person, a notice containing all or any of the requirements which may be included in a notice under sub-section (2) of section 6 of the Act, and the provisions of the Act shall, so far as may be, apply accordingly as if the notice were a notice issued under that section”

*Modification of section 287 —(xliv) In section 287,—*

(a) in sub-section (1),—

(i) in clause (a), for the words, brackets, letter and figures “under clause (c) of sub section (1) of section 271”, the words and figures “under section 10 of the Act for concealment of the particulars of the chargeable profits or for deliberately furnishing inaccurate particulars of such profits” shall be substituted,

(ii) in clause (b), for the word and figures “section 277”, the words and figures “section 22 of the Act” shall be substituted,

(b) in sub-section (2),—

(i) in clause (a), for the words, brackets, letters and figures “clause (a) or clause (b) of sub section (1) of section 271”, the words, brackets and figures “section 10 of the Act for failure, without reasonable cause, to furnish the return required under section 6 of the Act, or to produce or cause to be produced the documents, accounts or other evidence required by the Income-tax Officer under sub section (1) of section 7 of the Act” shall be substituted,

(ii) in clause (b), for the words, brackets, letter and figures “clause (c) of sub section (1) of section 271”, the words and figures “under section 10 of the Act for concealment of the particulars of the chargeable profits or for deliberately furnishing inaccurate particulars of such profits” shall be substituted,

(iii) in clause (c), for the word and figures “section 277”, the word and figures “section 22” shall be substituted,

(c) in sub section (3),—

(i) for the words, brackets, letters and figures “section 246 or clause (b) of sub section (1) of section 253”, the words and figures “section 12 of the Act” shall be substituted,

(ii) the words, brackets, letters and figures “or, in the case of an appeal filed under clause (b) of sub clause (1) of section 253, by the Appellate Tribunal” shall be omitted,

(d) in sub section (6), for the words and figures “sections 137 and 280”, the words and figures “the applied section 137” shall be substituted,

(e) sub section (7) shall be omitted,

(f) for the *Explanation*, the following *Explanation* shall be substituted—

\* “*Explanation*—The names of the directors, managing agents, secretaries and treasurers or managers of the company may also be published if, in the opinion of the Central Government, the circumstances of the case justify it”

*Modification of section 288*—(xli) In section 288,—

(a) in sub-section (1), for the word and figures “section 131” the words and figures “the applied section 131” shall be substituted,

(b) in sub section (4), in clause (b), after the word “income-tax”, the words “or super profits tax” shall be inserted,

(c) in sub section (5), in clause (b), after the word “income tax”, the words “or super profits tax” shall be inserted

*Modification of section 290*—(xlii) In section 290,—

(a) the words “deducting” and “deduction” shall be omitted,

(b) for the word “income”, the words “chargeable profits” shall be substituted

*Modification of section 291*—(xliii) In section 291, for the word “income”, wherever it occurs, the words “chargeable profits” shall be substituted

*Modification of the Second Schedule*—(xliv) In the Second Schedule,—

(a) below the title, for the brackets, words and figures “[See section 222]”, the brackets, words and figures “[See the applied section 222]”, shall be substituted,

(b) in rule 5, in clause (a), for the word and figures “section 220” the words and figures “the applied section 220” shall be substituted,

(c) in rule 86, in clause (a), for the words, brackets and figures “sub clause (ii) of clause (44) of section 2”, the words, brackets and figures “sub-clause (ii) of the applied section 2(44)”, shall be substituted

*Modification of the Thrd Schedule*—(xlv) In the Thrd Schedule,—

(a) below the title, for the brackets, words and figures “[See section 226(5)]”, the brackets, words and figures “[See sub-section (5) of the applied section 226]” shall be substituted,

(b) for the words “the Second Schedule”, the words “the applied Second Schedule” shall be substituted

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\* The amendment set out in the text seems to have been intended, though the amendment printed in the Gazette of India Extraordinary, Part II, Sec 3 (ii), dated the 23rd August, 1963, makes no sense due to some obvious errors in printing



**4 Application of the Income-tax (Certificate Proceedings) Rules, 1963 —** Div 5  
 The Income-tax (Certificate Proceedings) Rules, 1962, as amended from G  
 time to time, shall, so far as may be, apply, as if the said rules were part of  
 these rules, subject to the following modifications, namely —

- (i) All references to the provisions of the Income-tax Act, shall be construed as references to the corresponding provisions of that Act as applied to super profits tax by section 19 of the Super Profits Tax Act, 1963 and rule 3
- (ii) All references to "income-tax", except those in the short title and in the expression "Income-tax Officer" and "Income tax Act", shall be construed as references to "super profits tax"
- (iii) All references to "tax" shall be construed as references to "super profits tax"
- (iv) In rule 1, sub-rule 2 shall be omitted
- (v) In rule 2,—
  - (a) clause (1) shall be omitted,
  - (b) in clauses (3) and (4), for the words "the Act", wherever they occur, the words "Income-tax Act" shall be substituted
- (vi) In rule 37, in sub rule (2) for the words and figures "The Income-tax Act, 1961", the words and figures "The Super Profits Tax Act, 1963" shall be substituted

**5 Form of return of chargeable profits under section 6 —**The return of chargeable profits required to be furnished under sub-section (1) or sub-section (2) of section 6 of the Act shall be in Form No 1 and shall be verified in the manner indicated therein

**6 Form of notice under section 8(2) of the Act —**The notice which the Income-tax Officer is required to give under sub section (2) of section 8 of the Act before making a provisional assessment shall be in Form No 2

**7 Form of appeal to Appellate Assistant Commissioner —**(1) An appeal under section 12 of the Act to the Appellate Assistant Commissioner shall be made in Form No 3 and shall be verified in the manner indicated therein

(2) The form of appeal prescribed by sub-rule (1), the grounds of appeal and the form of verification appended thereto shall be signed by the principal officer of the company or where in the case of a non-resident company, the assessment has been made on any person who has been treated as its agent under section 163 of the Income-tax Act, by such person

**8 Mode of service —**(1) The intimation of any such order as is referred to in clause (b) of sub-section (3) of section 12 of the Act shall be served in the same manner as is laid down in the applied section 282 for the service of a notice or requisition

(2) Any other order, not being a notice or requisition, which is to be sent or communicated to, or served on, any person shall be sent, communicated or served either by post or as if it were a summons issued by a court under the Code of Civil Procedure, 1908 (V of 1908)

**9 Form of appeal and memorandum of cross-objections to Appellate Tribunal —**(1) An appeal under sub-section (1) or sub section (2) of section 13 of the Act to the Appellate Tribunal shall be in Form No 4 and shall be verified in the manner indicated therein

(2) A memorandum of cross-objections under sub-section (4) of section 13 of the Act to the Appellate Tribunal shall be made in Form No 5 and shall be verified in the manner indicated therein

**10 Search and seizure**—The powers of search and seizure under the applied section 132 shall be exercised in accordance with the provisions contained in sub rules (2) to (10) of rule 112 of the Income tax Rules, 1962, as if they were part of these rules, subject to the following modifications, namely —

- (i) All references to ' the Act ' in the aforesaid rule shall be construed as references to " the Super Profits Tax Act, 1963 "
- (ii) In sub rule (10) of the aforesaid rule, for the words and figures " Form No 45 ", the words and figure " Form No 6 " shall be substituted

**11 Disclosure of information regarding super profits tax payable**—  
(1) The application to the Commissioner under the applied section 138 for information as to the amount of super profits tax determined as payable by an assessee in respect of any assessment made under the Act, shall be made in Form No 7

(2) The information under the applied section 138 shall be furnished by the Commissioner in Form No 8

(3) Where it is not possible for the Commissioner to furnish the information asked for by the applicant under the applied section 138 owing to the fact that the relevant assessment has not been completed, he shall inform the applicant in Form No 9

(4) Where the Commissioner is satisfied that there are circumstances justifying the refusal of information as to the amount of super profits tax determined as payable by an assessee in respect of any assessment year, he shall intimate the fact to the applicant in Form No 10

**12 Fees for application under the applied section 138**—(1) Every application made by a person under the applied section 138 shall be accompanied by a fee of rupees ten for each assessment year for which information is requested for under that section

(2) Where the information is not furnished owing to the fact that the relevant assessment has not been completed or where the Commissioner refuses to furnish the information, he shall refund or cause to be refunded the amount of the fee paid

**13 Notice of demand**—(1) Subject to the provisions of sub rule (2), the notice of demand under the applied section 156 shall be in Form No 11 and shall be accompanied by the assessment form in Form No 12

(2) The notice of demand relating to any super profits tax due in consequence of a provisional assessment made under section 8 of the Act shall be in Form No 13

**14 Levy of interest under sub-section (2) of the applied section 220**—The interest chargeable under sub-section (2) of the applied section 220 shall be levied in accordance with the provisions of rules 118 and 119 of the Income-tax Rules, 1962, as if they were part of these rules, subject to the following modifications, namely —

- (i) All references to " tax " in the aforesaid rules shall be construed as references to " super profits tax "
- (ii) All references to sections 156, 220 and 222 in the aforesaid rules shall respectively be construed as references to the applied sections 156, 220 and 222

**15 Refund claim**—(1) A claim for refund under the applied section 239 shall be made in Form No 14

(2) The claim under sub rule (1) may be presented by the claimant in person or through a duly authorised agent or may be sent by post Div 5  
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**16 Form of application for reference to High Court**—An application under sub section (1) of the applied section 256 requiring the Appellate Tribunal to refer to the High Court any question of law shall be made in Form No 15

**17. Prescribed arrangements for declaration and payment of dividends within India**—The arrangements referred to in the applied section 286 and in clauses (viii) and (x) of rule 1 of the First Schedule to the Act, to be made by a company for the declaration and payment of dividends (including dividends on preference shares) within India shall be the same as specified in clauses (1), (2) and (3) of rule 27 of the Income tax Rules, 1962

## APPENDIX

### FORM No 1

### SUPER PROFITS TAX

[See rule 5]

Return of chargeable profits under sub-section (1) or sub-section (2) of section 6 of the Super Profits Tax Act, 1963

Assessment year 19                      —19

Name of the company

Address

### PART I

Statement of chargeable profits of the previous year(s) ended                      and  
other relevant particulars

(If there are different previous years for different sources of income, the source or sources should be indicated against each previous year )

|                                                                                                                                                                                                                                                                          | Rs |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----|
| 1 Amount of the chargeable profits of the previous year(s) as computed in Part II of the return<br>[Where the amount computed is a positive figure, it should be prefixed by the symbol (+) and where it is a negative figure, it should be prefixed by the symbol (—) ] |    |
| 2 Amount of the standard deduction as computed in Part III of the return                                                                                                                                                                                                 |    |
| 3 Amount of net chargeable profits (i.e., the amount by which the chargeable profits shown against item 1 exceed the standard deduction shown against item 2 )                                                                                                           |    |
| 4 Amount of deficiency in relation to earlier assessment years available for being set off against the net chargeable profits (give details )<br>(Please see Note 1 )                                                                                                    |    |
| 5 Amount of chargeable profits assessable for the assessment year (i.e., the amount by which the net chargeable profits shown against item 3 exceed the amount of the deficiency, if any, shown against item 4 )                                                         |    |
| 6 Amount of deficiency in relation to the assessment year<br>(Please see Note 1 )                                                                                                                                                                                        |    |

NOTE 1 —(See items 4 and 6 of Part I)

The term "deficiency" in relation to an assessment year, as defined in clause (6) of section 2 of the Super Profits Tax Act, 1963, means—

- (i) where there are chargeable profits in respect of the previous year relevant to that assessment year, the amount by which such profits as increased by the sum excluded under clause (xi) or clause (vii), as the case may be, of rule 1 of the First Schedule fall short of the standard deduction,
- (ii) where there are no chargeable profits in respect of the previous year relevant to that assessment year, the amount of the standard deduction

Under section 5 of the Super Profits Tax Act, 1963, the deficiency in relation to any assessment year is allowed to be carried forward and set off against the net chargeable profits (viz., the amount by which the chargeable profits exceed the standard deduction) for the next following assessment year. If there are no net chargeable profits for that assessment year or the amount of the deficiency exceeds the net chargeable profits for that year, the whole or the balance of the deficiency, as the case may be, is allowed to be set off against the net chargeable profits of the assessee for the next following assessment year and if and so far as such deficiency cannot be wholly so set off, it is allowed to be set off against the net chargeable profits of the assessee for the next following assessment year. In no case is the deficiency or any part thereof allowed to be carried forward beyond three assessment years immediately following the assessment year to which the deficiency relates.

Where there is more than one deficiency, and each such deficiency relates to a different assessment year, the deficiency relating to an earlier assessment year has to be set off before setting off the deficiency relating to later assessment year.

## PART II

### Computation of chargeable profits

(Copies of the audited profit and loss account and balance sheet must be attached to this return)

|                                                                                                                                               | Rs                 |
|-----------------------------------------------------------------------------------------------------------------------------------------------|--------------------|
| 1 Total income computed in accordance with the provisions of the Income tax Act, 1961                                                         | Profit +<br>Loss — |
| (i) Interest on securities                                                                                                                    | +                  |
| (ii) Income from house property                                                                                                               | +                  |
| (iii) Profits and gains of business                                                                                                           | +                  |
| (iv) Capital gains                                                                                                                            | +                  |
| (v) Income from other sources                                                                                                                 | +                  |
| (Please see Note 2)                                                                                                                           | Total income       |
| 2 DEDUCT (Add, if the figure in item 1 is a loss)                                                                                             |                    |
| (1) Income chargeable under the Income tax Act, 1961, under the head "Capital gains"                                                          |                    |
| (2) Any compensation or other payment referred to in clause (ii) of section 28 of the Income tax Act, 1961                                    |                    |
| (3) Profits of any business of life insurance                                                                                                 |                    |
| (4) Income chargeable to income-tax under sub section (2) of section 41 of the Income tax Act, 1961                                           |                    |
| (5) Profits derived from an industrial undertaking or hotel, on which under section 84 of the Income tax Act, 1961, income tax is not payable |                    |

Rs

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(6) Interest on securities of the Central Government issued or declared to be income tax free or of a State Government issued income tax free, the income tax whereon is payable by the State Government

(7) Donations to the National Defence Fund or charitable institutions and funds or to Government or a local authority in respect of which a deduction of income tax is allowable under section 88 of the Income tax Act, 1961  
(Please give details)

(8) Dividends from Indian companies or companies which have made the prescribed arrangements for the declaration and payment of dividends within India

(9) Royalties received from Government or a local authority or any Indian concern

(10) Income by way of any interest or fees for rendering technical services received from Government or a local authority or any Indian concern  
[Applicable only to a non resident company which has not made the prescribed arrangements for the declaration and payment of dividends within India, vide clause (x) of rule 1 of the First Schedule to the Super Profits Tax Act, 1963]

(11) Amount to be excluded under clause (xi) of rule 1 of the First Schedule to the Super Profits Tax Act, 1963  
(Applicable to non banking companies only)  
(Please see Note 3)

(12) Amount of reserve(s) or deposits to be excluded under clause (xii) of rule 1 of the First Schedule to the Super Profits Tax Act, 1963  
(Applicable to banking companies only)  
(Please see Note 4—give details)

(13) The amount of deduction from income tax and super tax chargeable on the total income allowable under the annual Finance Act in connection with export of any goods of merchandise out of India or the sale by a manufacturer of articles to any person who exports them out of India

(14) Amount of income tax and super tax payable by the company in respect of its total income under the provisions of the Income tax Act, 1961, as reduced by any income tax or super tax payable in respect of income referred to in clauses (i), (ii) and (iii) of rule 1 of the First Schedule to the Super Profits Tax Act, 1963  
(Please see Note 5)

(15) Amount of tax actually paid in a country outside India in respect of any portion of income included in the total income  
(Please give details)  
Total of entries (1) to (15) of item 2

3 Amount of chargeable profits carried to Part I of the return  
(Item 1 minus the total of all the entries in item 2)

## iv 5 NOTE 2 —(See item 1 of Part II )

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Against each of the entries (i) to (v), there should be shown the income as computed under the respective heads of income under the Income tax Act, 1961, after taking into account all deductions permissible under that Act

Total income is to be computed under the Income tax Act, 1961, by making the following adjustments wherever applicable and to the extent permissible under the provisions of the said Act —

- (a) adjustment for the amount of the development rebate carried forward from earlier assessment years,
- (b) set off of loss from one head against income from another head,
- (c) set off of losses carried forward from earlier assessment years,
- (d) adjustments for unabsorbed allowances on account of depreciation or capital expenditure on scientific research, carried forward from earlier assessment years

## NOTE 3 —[See entry (11) of item 2 of Part II ]

Under clause (xi) of rule 1 of the First Schedule to the Super Profits Tax Act, 1963, non banking companies are entitled to an exclusion for the purpose of computation of their chargeable profits of a sum equal to 10 per cent of their total income as reduced by any capital gains or compensation or other payment referred to in section 28(ii) of the Income tax Act, 1961, or any profits of a business of life insurance included in the total income

In respect of the assessment year 1963 64, the aforesaid exclusion is admissible without any conditions. But, for subsequent assessment years the said exclusion is admissible subject to the fulfilment of the following conditions, except in the case of Electricity Supply companies, namely —

- (i) an amount equal to the amount to be excluded should be spent during the previous year on the repayment of any moneys borrowed or debt incurred for acquisition of capital assets, or on acquisition of any capital assets in India for the purpose of the business, or on payment of dividends on preference share capital in excess of 6 per cent of such capital, or
- (ii) in so far as the amount spent during the previous year for the aforesaid purpose falls short of the amount to be excluded, a sum equal to the amount so fallen short should be debited to the profit and loss account and credited to a special reserve account for being utilised for the next five years only for one or more of the purposes mentioned in (i) above

(Relevant particulars regarding compliance with the abovementioned conditions should be furnished along with the return in respect of the assessment year 1964 65 or of any subsequent assessment year )

## NOTE 4 —[See entry (12) of item 2 of Part II ]

In the case of a banking company, clause (xii) of rule 1 of the First Schedule to the Super Profits Tax Act, 1963, provides for the exclusion from its total income (as computed under the Income tax Act, 1961) of the amount of certain deposits made or reserves created by it during the previous year, for the purpose of the computation of its chargeable profits. The amount to be excluded under that provision is equivalent to, either—

- (a) the amount transferred during the previous year to a reserve fund under section 17(1) of the Banking Companies Act, 1949, or the amounts deposited with the Reserve Bank of India under section 11(2)(b)(ii) of that Act, not exceeding the amount required under the aforesaid provisions to be so transferred or deposited, as the case may be, or
- (b) any sum transferred during the previous year to any reserves in India (including reserves not shown as such in the published balance sheet) in so far as the sums transferred to such reserves are attributable to income chargeable to tax under the Income tax Act, 1961, and have not been allowed as a deduction in computing the total income under that Act and in so far as the aggregate of such sums transferred to the reserves does not exceed the highest of the aggregate of such sums, if any, so transferred to reserves during any one of the three years prior to the previous year,

whichever is higher

## NOTE 5 —[See entry (14) of item 2 of Part II ]

The amount of income tax and super tax to be shown against this item will be the amount calculated after making allowance for any relief, rebate or deduction in respect of income tax and super tax to which the assessee may be entitled under the provisions of the Income tax Act, 1961, or the annual Finance Act. The amount of tax so arrived at

should be further reduced by the income tax and super tax payable in respect of (a) any profits of any business of life insurance, (b) any income by way of compensation or other payment referred to in section 25(ii) of the Income tax Act, 1961, and (c) any income chargeable under the head "Capital gains" under the Income tax Act, 1961, where any such income, profits and gains are included in the total income

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### PART III

#### Computation of standard deduction

|                                                                                                                                                                                                                                                                                                                                       | Rs |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----|
| 1 Paid up share capital as on the first day of the previous year<br>(Please see Note 6)                                                                                                                                                                                                                                               |    |
| 2 Credit balance in the share premium account (as on the first day of the previous year), to the extent it represents premium received in cash on the issue of shares                                                                                                                                                                 |    |
| 3 Amount (as on the first day of the previous year) of the development rebate reserve, if any created under the proviso (b) to section 10(2)(vi) of the Indian Income tax Act, 1922, or under sub section (3) of section 34 of the Income tax Act, 1961                                                                               |    |
| 4 Amount (as on the first day of the previous year) of other reserves, if any, in so far as the amounts credited to the said reserves have not been allowed in computing the profits of the company for the purpose of the Indian Income tax Act, 1922, or the Income tax Act, 1961<br>(Please give details)                          |    |
| 5 Total of items 1 to 4 above                                                                                                                                                                                                                                                                                                         |    |
| 6 DEDUCT                                                                                                                                                                                                                                                                                                                              |    |
| (1) Amount (as on the first day of the previous year) of any paid up share capital brought into existence by creating or by increasing (by revaluation or otherwise) any book asset                                                                                                                                                   |    |
| (2) (a) Amount (as on the first day of the previous year) of the cost of assets, if any, the income from which is not includible in the chargeable profits in accordance with clause (iii) or clause (ii) or clause (iii) of rule 1 of the First Schedule to the Super Profits Tax Act, 1963<br>Rs<br>(Please see Note 7)             |    |
| (b) Aggregate of the amounts (as on the first day of the previous year) of—<br>(i) any money borrowed which remains outstanding, and<br>(ii) the amount of any fund, any surplus and any such reserves as is not to be taken into account in computing the capital under the Second Schedule to the Super Profits Tax Act, 1963<br>Rs |    |
| (c) Amount by which the cost of the assets shown against entry (a) exceeds the amount shown against entry (b) above<br>(Please see rule 1 of the Second Schedule to the Super Profits Tax Act, 1963)                                                                                                                                  |    |
| 7 Net amount of capital arrived at by deducting from the amount shown against item 5, the total of the amounts shown against entries (1) and (2)(c) of item 6                                                                                                                                                                         |    |

Rs

- 8 If the paid up share capital of the company was increased after the first day of the previous year, the amount by which the capital computed in accordance with rule 1 of the Second Schedule to the Super Profits Tax Act, 1963, is to be increased under rule 2 of that Schedule

(Please see Note 8)

- 9 If the paid up share capital of the company was reduced after the first day of the previous year, the amount by which the capital computed in accordance with rule 1 of the Second Schedule to the Super Profits Tax Act, 1963, is to be decreased under rule 2 of that Schedule

(Please see Note 8)

- 10 Amount arrived at by adding to/deducting from the net amount of the capital shown against item 7, the amount shown against items 8 and 9 respectively

- 11 (a) Amount of income, profits and gains, if any, not includible in the total income as computed under the Income tax Act, 1961

Rs

(Please see Note 9)

- (b) Total amount of income, profits and gains in respect of the previous year(s) (i.e., the aggregate of the amount shown in entry (a) above, and the amount of the total income in respect of the previous year(s) as shown in item 1 of Part II of this return)

Rs

- (c) Amount by which the capital as shown in item 10 is required to be diminished in accordance with rule 3 of the Second Schedule to the Super Profits Tax Act, 1963, i.e., the amount shown in item 10 ×

$$\frac{\text{Amount shown in entry (a) of item 11}}{\text{Amount shown in entry (b) of item 11}}$$

(Please see Note 10)

- 12 Capital of the company as computed in accordance with the provisions of the Second Schedule to the Super Profits Tax Act, 1963 (Amount shown in item 10 minus the amount shown in entry (c) of item 11)

- 13 Amount of the standard deduction at 6% of the capital (as shown in item 12) or Rs 50,000, whichever is greater

(If the previous year is longer or shorter than a period of 12 months, the aforesaid amount of 6% or, as the case may be, of Rs 50,000 should be increased or decreased proportionately)

(Please see Note 11)

#### NOTE 6 —(See item 1 of Part III)

If there are different previous years for different sources of income, the computation of capital under rules 1 and 2 of the Second Schedule to the Super Profits Tax Act, 1963 is to be made with reference to the previous year which commenced first, *vide Explanation 3* to rule 1 of the Second Schedule to the Super Profits Tax Act 1963

#### NOTE 7 —[See entry 2(a) of item 6 of Part III]

The income which is not includible in the chargeable profits of a company under clauses (iii), (iv) and (vii) of rule 1 of the First Schedule to the Super Profits Tax Act, 1963 respectively, is the profits of any business of life insurance interest on securities of the Central Government or of a State Government issued or declared to be income tax free and dividends from an Indian company or a company which has made the prescribed arrangements for the declaration and payment of dividends within India



NOTE 8 —(See items 8 and 9 of Part III )

Rule 2 of the Second Schedule to the Super Profits Tax Act, 1963, provides that where after the first day of the previous year relevant to the assessment year, the paid up share capital of a company is increased or reduced by any amount during that previous year, the capital computed in accordance with rule 1 shall be increased or decreased, as the case may be, by a portion of that amount which is proportional to the portion of the previous year during which the increase or the reduction of the paid up share capital remained effective

NOTE 9 —[See entry (a) of item 11 of Part III ]

Instances of income, profits and gains not includible in the total income as computed under the Income tax Act 1961, are agricultural income in India, and in the case of a non resident company, its income accruing or arising outside India

NOTE 10 —[See entry (c) of item 11 of Part III ]

Item 11 is to be filled in only in the case of a company, a part of the income, profits and gains of which is not includible in its total income as computed under the Income tax Act, 1961

Rule 3 of the Second Schedule to the Super Profits Tax Act, 1963, provides that where a part of the income, profits and gains of a company is not includible in the total income as computed under the Income tax Act, 1961, its capital shall be the sum ascertained in accordance with rules 1 and 2, diminished by an amount which bears to that sum the same proportion as the amount of the aforesaid income, profits and gains bears to the total amount of its income, profits and gains

NOTE 11 —(See item 13 of Part III )

Where a company has different previous years in respect of its income, profits and gains the increase or decrease referred to in item 13 should be calculated with reference to the length of the previous year of the longest duration (vide the 2nd proviso to clause (9) of section 2 of the Super Profits Tax Act, 1963)

#### PART IV

#### Other particulars required under sub-section (1)/sub-section (2) of section 6 of the Super Profits Tax Act, 1963

A Place where the registered office of the company is situated

B Place where the head office of the company is situated

C Location of each branch

I declare that to the best of my knowledge and belief, the information given in the above statements in Parts I, II, III and IV of this return is correct and complete, that the amount of the chargeable profits and other particulars shown are truly stated and relate to the previous year/all the previous years relevant to the assessment year commencing on the 1st day of April, 19 , and that the company had during the said previous year(s) no other chargeable profits

I further declare that the company was  $\frac{\text{resident}}{\text{non resident}}$  in India during the previous year(s) for which the return is made

Date

Signature

Address

Status\*

\*The declaration should be signed by the principal officer of the company or where in the case of a non resident company any person has been treated as its agent under section 163 of the Income tax Act, 1961, by such person

THE SIGNATORY SHOULD SATISFY HIMSELF THAT THE RETURN IS CORRECT AND COMPLETE IN EVERY RESPECT BEFORE SIGNING THE VERIFICATION

FORM No 2  
SUPER PROFITS TAX

[See rule 6]

Notice under sub-section (2) of section 8 of the Super Profits Tax Act, 1963

Income tax Office

Dated the                      19

To

Whereas the time allowed under sub section (1) or sub section (2) of section 6 of the Super Profits Tax Act, 1963, for furnishing of the return of chargeable profits for the assessment year 19                      —19                      has expired, and whereas I propose to make a provisional assessment for that assessment year in accordance with the provisions of section 8 of the said Act, I hereby give you notice under sub section (2) of that section, of my intention to make a provisional assessment for the said assessment year as indicated in the statement of the amount of the proposed assessment attached

2 If you have any objection to the amount of the proposed provisional assessment you may, within fourteen days of receipt of this notice deliver to me a statement of your objections thereto

3 Your return for the year 19                      —19                      have\*/have not been furnished

(SEAL)

*Income tax Officer*

\*Delete whichever is inappropriate

FORM No 3  
SUPER PROFITS TAX

[See rule 7]

Appeal to the Appellate Assistant Commissioner of Income-tax under section 12 of the Super Profits Tax Act, 1963

Designation of the Appellate  
Assistant Commissioner

\*No                      of                      19                      —19

|                                                                    |  |
|--------------------------------------------------------------------|--|
| 1 Name and address of the appellant                                |  |
| 2 S P T G I R No                                                   |  |
| 3 Assessment year in connection with which the appeal is preferred |  |

## FORM No 4

## SUPER PROFITS TAX

[See rule 9(1)]

## Form of appeal to the Appellate Tribunal

In the Income tax Appellate Tribunal

\*Appeal No \_\_\_\_\_ of \_\_\_\_\_ 19 \_\_\_\_—19 \_\_\_\_

Appellant

Versus

Respondent

|    |                                                                                                  |  |
|----|--------------------------------------------------------------------------------------------------|--|
| 1  | The State in which the assessment was made                                                       |  |
| 2  | Section under which the order appealed against was passed                                        |  |
| 3  | Assessment year in connection with which the appeal is preferred                                 |  |
| 4  | **The Income tax Officer passing the original order                                              |  |
| 5  | **Section of the Super Profits Tax Act, 1963, under which the I T O passed the order             |  |
| 6  | **The Appellate Assistant Commissioner passing the order under section 12/applied section 131(2) |  |
| 7  | **The Commissioner passing the order under section 17                                            |  |
| 8  | Date of communication of the order appealed against                                              |  |
| 9  | Address to which notices may be sent to the appellant                                            |  |
| 10 | Address to which notices may be sent to the respondent                                           |  |
| 11 | †Relief claimed in appeal                                                                        |  |

## †GROUNDS OF APPEAL

1

2

3

4

etc

*Signed*  
(Appellant)

*Signed*  
(Authorised representative, if any)

## VERIFICATION

I, \_\_\_\_\_, the appellant, do hereby declare that what is stated above is true to the best of my information and belief

Day 5  
G

Verified today the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_

Signed \_\_\_\_\_

- NOTES —1** The memorandum of appeal must be in triplicate and should be accompanied by two copies (at least one of which should be a certified copy) of the order appealed against and two copies of the relevant order of the Income tax Officer
- 2** The memorandum of appeal in the case of an appeal by an assessee under section 13(1) of the Act must be accompanied by a fee of one hundred rupees. It is suggested that the fee should be credited in the Treasury or a branch of the State Bank of India or a branch of the Reserve Bank of India after obtaining a chalan from the Income tax Officer and the triplicate chalan sent to the Appellate Tribunal with the memorandum of appeal. The Appellate Tribunal will not accept cheques, drafts, hundies or other negotiable instruments
- 3** The memorandum of appeal should be written in English and should set forth, concisely and under distinct heads, the grounds of appeal without any argument or narrative and such grounds should be numbered consecutively
- 4** \*The number and year of appeal will be filled in in the office of the Appellate Tribunal
- 5** \*\*Delete the inapplicable items
- 6** †If the space provided is found insufficient, separate enclosures may be used for the purpose

## FORM No 5

## SUPER PROFITS TAX

[See rule 9(2)]

## Form of memorandum of cross-objections to the Appellate Tribunal

In the Income-tax Appellate Tribunal

\*Cross objection No \_\_\_\_\_ of \_\_\_\_\_ 19\_\_\_\_ —19\_\_\_\_  
 \*\*In Appeal No \_\_\_\_\_ of \_\_\_\_\_ 19\_\_\_\_ —19\_\_\_\_ ..  
 Appellant Versus Respondent

|   |                                                                                          |  |
|---|------------------------------------------------------------------------------------------|--|
| 1 | **Appeal No allotted by the Tribunal to which memorandum of cross objections relates     |  |
| 2 | The State in which the assessment was made                                               |  |
| 3 | Section under which the order appealed against was passed                                |  |
| 4 | Assessment year in connection with which the memorandum of cross objections is preferred |  |
| 5 | Date of receipt of notice of appeal filed by the appellant to the Tribunal               |  |
| 6 | Address to which notices may be sent to the respondent (cross objector)                  |  |
| 7 | Address to which notices may be sent to the appellant                                    |  |
| 8 | Relief claimed in the memorandum of cross objections                                     |  |

## THE SUPER PROFITS TAX RULES, 1963

Div 5  
G1  
2  
3  
4  
etc

## † GROUNDS OF CROSS-OBJECTIONS

Signed  
(Respondent)Signed  
(Authorised representative, if any)

## VERIFICATION

I, \_\_\_\_\_, the respondent, do hereby declare that what is stated above is true to the best of my information and belief

Verified today the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_

Signed

- Notes — 1 The memorandum of cross objections must be in triplicate
- 2 The memorandum of cross objections should be written in English and should set forth, concisely and under distinct heads the cross objections without any argument or narrative and such objections should be numbered consecutively
- 3 \*The number and year of memorandum of cross objections will be filled in in the office of the Appellate Tribunal
- 4 \*\*The number and year of appeal as allotted by the office of the Tribunal and appearing in the notice of appeal received by the respondent is to be filled in here by the respondent
- 5 †If the space provided is found insufficient, separate enclosures may be used for the purpose

FORM No 6  
SUPER PROFITS TAX

[See rule 10]

Warrant of authorization under section 132 of the Income-tax Act, 1961, as applied to super profits tax by section 19 of the Super Profits Tax Act, 1963

The Income tax Officer,

Whereas information has been laid before me and on the consideration thereof I have been led to believe that certain books of account and/or documents which are or may be relevant to or useful for proceedings under the Super Profits Tax Act, 1963, in the case (name of the assessee with S P T G I R No \_\_\_\_\_) have been kept and are to be found at (specify particulars of the building or place)

This is to authorise and require you

(name of the Income tax Officer)

- (a) to enter and search with such assistance of police officers as may be required, the said premises, Dis 5  
G
- (b) to place identification marks on such books and documents as may be found in the course of the search and as you may consider relevant to or useful for the proceedings aforesaid and to make a list thereof together with particulars of the identification marks,
- (c) to examine such books and/or documents and make, or cause to be made, copies or extracts from such books and documents,
- (d) to seize such books of account and/or documents, and take possession thereof,
- (e) to convey such books or documents to the office of the Income tax Officer or any other authority not below the rank of an Income tax Officer employed in the execution of the Act, and
- (f) to exercise all other powers and duties under the said section and the rules relating thereto

(SEAL)

*Commissioner of Income tax*

## FORM No 7

## SUPER PROFITS TAX

[See rule 11]

Application for information under section 138 of the Income-tax Act, 1961,  
as applied to super profits tax by section 19 of the Super Profits Tax Act, 1963

To

The Commissioner of Income tax,

Sir,

I request you to furnish the information as to the amount of super profit-tax determined as payable by

(here give name and complete address of the company)

in respect of the assessment year commencing on the 1st day of April 19 .

2 The fee of Rs 10 has been paid and the receipt is enclosed

*Signature of the applicant*

*Name of the applicant*  
(in capital letters)

*Father's/Husband's name**Full address**Dated**19*

NOTES—(1) A separate application has to be made in respect of each assessment year for each assessment year

(2) The fee should be credited in the Treasury or a branch of the State Bank of India or a branch of the Reserve Bank of India after obtaining a receipt from the Income tax Officer and the triplicate return sent to the Commissioner along with the application

FORM No 8  
SUPER PROFITS TAX

[See rule 11]

Form in which information to be given under section 138 of the Income-tax Act, 1961, as applied to super profits tax by section 19 of the Super Profits Tax Act, 1963

Office of the

Date

No

To

With reference to your application dated \_\_\_\_\_ under section 138 of the Income tax Act, 1961, as applied to super profits tax by section 19 of the Super Profits Tax Act, 1963, requesting for information as to the amount of super profits tax determined as payable by \_\_\_\_\_ in respect of the assessment year commencing on the 1st day of April, 19\_\_\_\_\_, the said information is given below —

Name and address of the company

Assessment year

Amount of super profits tax determined as payable

(in words and figures)

(SEAL)

*Signature of the authority*

*Dated*

19

*furnishing the information*

FORM No 9  
SUPER PROFITS TAX

[See rule 11]

Form in which intimation to be sent regarding non-availability of information under section 138 of the Income-tax Act, 1961, as applied to super profits tax by section 19 of the Super Profits Tax Act, 1963

Office of the

No

Date

To

With reference to your application dated \_\_\_\_\_ under section 138 of the Income tax Act, 1961, as applied to super profits tax by section 19 of the Super Profits Tax Act, 1963, requesting for information as

to the amount of super profits tax determined as payable by \_\_\_\_\_ in respect of the assessment year commencing on the 1st day of April, 19\_\_\_\_\_, I am to inform you that the said information is not yet available. Div 5 G

(SEAL)

Dated

19

Signature

## FORM No 10

## SUPER PROFITS TAX

[See rule 11]

Refusal to supply information under section 138 of the Income-tax Act, 1961, as applied to super profits tax by section 19 of the Super Profits Tax Act, 1963  
Office of the

No

Dated

To

With reference to your application dated \_\_\_\_\_ under section 138 of the Income tax Act, 1961, as applied to super profits tax by section 19 of the Super Profits Tax Act, 1963, requesting for information as to the amount of super profits tax determined as payable by \_\_\_\_\_ in respect of the assessment year commencing on the 1st day of April, 19\_\_\_\_\_, I am satisfied that there are circumstances justifying its refusal and the information is accordingly refused.

(SEAL)

Dated

19

Signature

## FORM No 11

## SUPER PROFITS TAX

[See rule 13(1)]

Notice of demand under section 156 of the Income-tax Act, 1961, as applied to super profits tax by section 19 of the Super Profits Tax Act, 1963

To

## SPT GIR No

This is to give you notice that for the assessment year \_\_\_\_\_ a sum of Rs \_\_\_\_\_ details of which are given on the reverse has been determined to be payable by you



Treasury Officer  
Sub Treasury Officer  
Agent, State Bank of India  
Reserve Bank of India

2 The amount should be paid to the

at within  $\frac{35 \text{ days}}{\text{days}}$  of the service of this notice

The previous approval of the Inspecting Assistant Commissioner of Income tax has been obtained for allowing a period of less than 35 days for the payment of the above sum. A chalan is enclosed for the purpose of payment.

3 If you do not pay the amount on or before the period specified above, you shall be liable to pay simple interest at four per cent per annum from the date commencing after the end of the period aforesaid in accordance with section 220(2) of the Income-tax Act, 1961, as applied to super profits tax by section 19 of the Super Profits Tax Act, 1963.

4 If you do not pay the amount of tax within the period specified above, penalty (which may be as great as the amount of tax in arrear) may be imposed upon you after giving you a reasonable opportunity of being heard in accordance with section 221 of the Income-tax Act, 1961, as applied to super profits tax by section 19 of the Super Profits Tax Act, 1963.

5 If you do not pay the amount within the period specified above, proceedings for the recovery thereof will be taken in accordance with sections 222 to 229, 231 and 232 and the Second Schedule and the Third Schedule of the Income-tax Act, 1961, as applied to super profits tax by section 19 of the Super Profits Tax Act, 1963.

6 If you intend to appeal against the  $\frac{\text{assessment}}{\text{fine}} \frac{\text{penalty}}$  you may present

an appeal under section 12 of the Super Profits Tax Act, 1963, to the Appellate Assistant Commissioner of Income tax within thirty days of the receipt of this notice in the form prescribed under section 12(2) of the said Act duly stamped and verified as laid down in that form.

Dated

Income tax Officer

Place

Address

NOTE —Delete inappropriate paragraphs and words

## FORM No 12 SUPER PROFITS TAX

[See rule 13(1)]

### Assessment Form

Serial No

Assessment year

S P T G I R No

Section under which assessment  
 or refund is made

Name

District or Circle

Address

State

Resident/Non-resident

Public Limited/

Private Limited Company

Rs

A (1) Amount of chargeable profits

(2) Amount of standard deduction

(3) Net chargeable profits [i.e. the amount by which the chargeable profits in entry (1) exceed the standard deduction in entry (2)]

(4) Amount of deficiency in relation to earlier assessment years set off against the net chargeable profits

(5) Amount of chargeable profits assessed to super profits tax for the assessment year [i.e. the amount by which the net chargeable profits shown in entry (3) exceed the amount of deficiency shown in entry (4)]

(6) Amount of chargeable profits assessed to super profits tax at the rate of 50 per cent

(7) Amount of chargeable profits assessed to super profits tax at the rate of 60 per cent

B Super profits tax chargeable

*Adjustments to arrive at tax payable by the assessee,*

C Super profits tax paid on provisional assessment

D Super profits tax payable/refundable

E Super profits tax payable/refundable as per item D of assessment form of original assessment made on (date)

(This is to be filled in in the case of reassessment, revision, rectification, appeal, etc.)

F (1) Additional amount of super profits tax payable/amount of reduction in super profits tax on reassessment/revision/rectification, appeal, etc

(2) Penalty under section

(3) Composition under section 24

(4) Interest payable by assessee under section 220 of the Income tax Act, 1961, as applied to super profits tax by section 19 of the Super Profits Tax Act, 1963

(5) Interest payable to assessee under section 243/244 of the Income tax Act, 1961, as applied to super profits tax by section 19 of the Super Profits Tax Act, 1963

Total sum  $\frac{\text{payable}}{\text{refundable}}$  (in figures)

In words—Rupees and pP

Date

Income-tax Officer

## FORM No 13

## SUPER PROFITS TAX

[See rule 13(2)]

Notice of demand under section 156 of the Income-tax Act, 1961, as applied to super profits tax by section 19 of the Super Profits Tax Act, 1963, for payment of super profits tax provisionally assessed under section 8 of the latter Act

To

S P T G I R No

Please take notice that for the assessment year \_\_\_\_\_ the sum of Rs \_\_\_\_\_ has been determined to be payable by you under section 8 of the Super Profits Tax Act, 1963

2 The amount should be paid to the \_\_\_\_\_  
 Treasury Officer  
 Sub Treasury Officer  
 Agent, State Bank of India  
 Reserve Bank of India

at \_\_\_\_\_ within  $\frac{35 \text{ days}}{\text{days}}$  of the service of this notice

The previous approval of the Inspecting Assistant Commissioner of Income tax has been obtained for allowing a period of less than 35 days for the payment of the above sum. A chalan is enclosed for the purpose of payment

3 If you do not pay the amount on or before the period specified above, you shall be liable to pay simple interest at four per cent per annum from the date commencing after the end of the period aforesaid in accordance with section 220(2) of the Income tax Act, 1961, as applied to super profits tax by section 19 of the Super Profits Tax Act, 1963

4 Further if you do not pay the amount within the period specified above, penalty (which may be as great as the amount of tax in arrear) may be imposed upon you after giving you a reasonable opportunity of being heard in accordance with section 221 of the Income-tax Act, 1961, as applied to super profits tax by section 19 of the Super Profits Tax Act, 1963

5 If you do not pay the amount within the period specified above, proceedings for the recovery thereof will be taken in accordance with sections 222 to 229 and 231 to 233 and the Second Schedule and the Third Schedule of the Income tax Act, 1961, as applied to super profits tax by section 19 of the Super Profits Tax Act, 1963

Dated

19

Income tax Officer

Place

(Address)

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NOTE —Delete the inappropriate words

FORM No 14  
SUPER PROFITS TAX

[See rule 15]

Claim for refund of super profits tax

I, \_\_\_\_\_, principal officer/agent\* of \_\_\_\_\_ (name of the company) do hereby state that the chargeable profits of and the standard deduction admissible to \_\_\_\_\_ (name of the company) computed in accordance with the provisions of the Super Profits Tax Act, 1963, during the year ending on \_\_\_\_\_, being the previous year for the assessment year commencing on the 1st April, 19\_\_\_\_, amounted to Rs \_\_\_\_\_ and Rs \_\_\_\_\_ respectively, that the super profits tax chargeable in respect of such chargeable profits is Rs \_\_\_\_\_ and that the total amount of super profits tax paid is Rs \_\_\_\_\_

I, therefore, request for a refund of Rs \_\_\_\_\_

Signature

Dated \_\_\_\_\_

I hereby declare that the abovenamed company was \_\_\_\_\_ resident \_\_\_\_\_ non resident during the previous year(s) relevant to the assessment year to which this claim relates and that what is stated in this application is correct

Signature

Dated \_\_\_\_\_

- \* (1) Delete the inappropriate word(s)  
(2) The term "agent" means a person who has been treated as an agent of a non resident company under section 163 of the Income tax Act, 1961

FORM No 15  
SUPER PROFITS TAX

[See rule 16]

Reference application under section 256(1) of the Income-tax Act, 1961, as applied to super profits tax by section 19 of the Super Profits Tax Act, 1963

In the Income-tax Appellate Tribunal  
In the matter of the assessment of \_\_\_\_\_  
R A No \_\_\_\_\_ of \_\_\_\_\_ 19\_\_\_\_  
Vs \_\_\_\_\_

(name of the assessee)  
(to be filled in by the office)

Respondent

Applicant

State from which the application is filed  
Name and number of the appeal which gives rise to the reference  
The applicant states as follows —

- 1 that the appeal noted above was decided by the Bench of the Tribunal on \_\_\_\_\_
- 2 that notice of the order under sub section (1) of section 254 of the Income tax Act, 1961, as applied to super profits tax by section 19 of the Super Profits Tax Act, 1963, was served on the applicant on \_\_\_\_\_

3 that the facts which are admitted and/or found by the Appellate Tribunal and which are necessary for drawing up a statement of the case, are stated in the enclosure for ready reference

4 that the following questions of law arise out of the order of the Appellate Tribunal

(1)

(2)

(3)

5 that the applicant, therefore, requires under sub section (1) of section 256 of the Income tax Act, 1961, as applied to super profits tax by section 19 of the Super Profits Tax Act, 1963, that a statement of the case be drawn up and the questions of law numbered out of the questions of law referred to in paragraph 4 above be referred to the High Court

6 that the documents, or copies thereof, as specified below (the translation in English of the documents, where necessary, is annexed) be forwarded to the High Court with the statement of the case

*Signed*

*(Applicant)*

*Signed*

*(Authorised representative, if any)*

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NOTE —The application when made by an assessee must be accompanied by a fee of one hundred rupees. It is suggested that the fee should be credited in the Treasury or a branch of the State Bank of India or a branch of the Reserve Bank of India, after obtaining a chalan from the Income tax Officer and the triplicate chalan sent to the Appellate Tribunal with the application. The Appellate Tribunal will not accept cheques, drafts, hundies, or other negotiable instruments

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# H

## THE COMPULSORY DEPOSIT SCHEME ACT, 1963

(Act No XXI of 1963)

*(Received the assent of the President on the 22nd May, 1963)*

*An Act to provide in the interest of national economic development for compulsory deposit and for the framing of a scheme in relation thereto*

**1. Short title, extent and commencement**—(1) This Act may be called the Compulsory Deposit Scheme Act, 1963

(2) It extends to the whole of India

(3) It shall come into force on such date\* as the Central Government may, by notification in the Official Gazette, appoint

**2 Persons to whom Act applies**—This Act shall apply to the following categories of persons, namely—

(a) persons liable to payment of land-revenue (whether known as land-revenue, rent, tax or by any other name) under any law with respect to land-revenue whether or not such persons are liable to pay tax under the Income-tax Act,

(b) persons liable to payment of tax under the Income-tax Act,

(c) holders of immovable properties situated in urban areas assessed to tax (whether known as property tax, house tax or by any other name) who are not liable to payment of tax under the Income-tax Act,

(d) employees of—

(i) the Central and State Governments,

(ii) local authorities,

(iii) companies as defined in section 3 of the Companies Act, 1956 (I of 1956), including foreign companies within the meaning of section 591 and Government companies as defined in section 617 of that Act,

(iv) any other corporation (including a co-operative society) established by or under a Central, Provincial or State Act,

(v) individuals or associations of persons or bodies of individuals liable to payment of tax under the Income-tax Act, and entitled to deduct the salary paid to their employees for the purpose of computing their income under that Act,

whose annual income from salary is one thousand five hundred rupees or more and who are not liable to payment of tax under the Income-tax Act,

(e) dealers whose annual turnover, determined in accordance with the provisions of any State Act with respect to tax on the sale of goods, is fifteen thousand rupees or more and who are not liable to payment of tax under the Income-tax Act

Provided that where by or under any such State Act any amount higher than fifteen thousand rupees has been fixed as the

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\*The appointed date is the 1st June, 1963 Notification No G S R 887, dated the 25th May, 1963

minimum annual turnover for the purpose of registration under that Act the reference to fifteen thousand rupees in this clause shall be construed as a reference to that amount,

*Explanation* —In this clause,—

- (a) “dealer” has the same meaning as in the respective State Acts with respect to tax on the sale of goods,
- (b) “State Act” includes a Provincial Act,
- (f) such other categories of persons (than those referred to in clauses (a) to (e)) whose annual income is one thousand five hundred rupees or more and who are not liable to payment of tax under the Income-tax Act, as may be specified by the Central Government by notification in the Official Gazette

**3 Definitions** —In this Act, unless the context otherwise requires,—

- (a) “additional surcharge” means additional surcharge for the purposes of the Union referred to in the annual Finance Act,
- (b) “deposit” means a deposit of money,
- (c) “Income-tax Act” means the Income-tax Act, 1961 (XLIII of 1961),
- (d) “person” shall have the same meaning as in clause (31) of section 2 of the Income-tax Act,
- (e) “salary” has the same meaning as in section 17 of the Income tax Act, but in relation to a person falling under clause (d) of section 2 does not include any gratuity or annuity or pension,
- (f) “urban area” means any area within the local limits of a municipality (by whatever name called), a notified area committee, a town area committee, a city and town committee, a small town committee, a Cantonment Board or a Panchayat constituted by reorganisation of any of the aforesaid local authorities and having a population of ten thousand or more,
- (g) “year” means the financial year

**4 Requirement as to compulsory deposit** —(1) As from such date\* as the Central Government may, by notification in the Official Gazette, appoint in this behalf, every person to whom this Act applies, other than a person falling under clause (b) of section 2, shall make a compulsory deposit at such rate as may be provided for in a scheme framed under this Act

Provided that different notifications may be issued under this sub-section on different dates in relation to different categories of persons

Provided further that the rate of compulsory deposit shall not exceed the maximum rate specified in sub section (2)

(2) The maximum rate of deposit shall be—

- (a) in the case of a person falling under clause (a) of section 2, fifty per cent of the land-revenue (including surcharge thereon, if any) payable in respect of the land or lands held by him in the year for which the deposit is required to be made,

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\* The 1st day of July, 1963, is the appointed date from which every employee referred to in s 2(d) of this Act shall make a compulsory deposit at the rate specified in the Compulsory Deposit (Employees) Scheme, 1963 Notification No G S R 888, dated the 25th May, 1963

*Explanation* —In this clause “year” means the year with reference to which land-revenue is payable under any law with respect to land-revenue, Div 5  
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- (b) in the case of a person falling under clause (c) of that section, three per cent of the annual rental value of the property with reference to which the property is assessed to the tax referred to in that clause in the year in which the deposit is required to be made

Provided that where the property is assessed to such tax not with reference to its annual rental value, the maximum rate of deposit under this clause shall be twelve and a half per cent of such tax,

- (c) in the case of a person falling under clause (d) of that section, three per cent of his annual income from salary,
- (d) in the case of a person falling under clause (e) of that section, one-third of one per cent of his turnover during the year immediately preceding the year in which the deposit is required to be made,
- (e) in the case of a person falling under clause (f) of that section, a sum of sixty rupees per annum

(3) A person falling under clause (b) of section 2 by whom any additional surcharge is payable in respect of any assessment year may make a deposit under this Act in respect of that year and if he does so, then, he shall, on production of proof before the Income-tax Officer concerned of the fact of such deposit having been made, be entitled to deduction from the additional surcharge of a sum which shall be equal to—

- (a) the sum so deposited, or
- (b) (i) where his residual income is six thousand rupees or less, three per cent of such residual income, or
- (ii) where his residual income exceeds six thousand rupees, three per cent of the first six thousand rupees of such residual income and two per cent of the balance thereof,

whichever is less

*Explanation* —In this sub-section “residual income” has the same meaning as in section 2 of the Finance Act, 1963 (XIII of 1963)

(4) Any person falling under clause (b) of section 2 who is in receipt of any income under the head “Salaries” during any financial year may make a deposit under this Act in that year and if he does so, then, notwithstanding anything in the Income-tax Act, the person responsible for paying that income shall, on production of proof of the fact of such deposit having been made, reduce the amount of additional surcharge included in the tax to be deducted in accordance with the provisions of section 192 of that Act by a sum which shall be equal to—

- (a) the sum so deposited, or
- (b) the sum calculated in accordance with clause (b) of sub-section (3),

whichever is less

(5) Any person falling under clause (b) of section 2 who is liable to pay advance tax under the Income-tax Act in any financial year may make a deposit under this Act in that year and if he does so, then, notwithstanding anything contained in the Income-tax Act, he shall, on production of proof before the Income-tax Officer concerned of the fact of such deposit having



5 been made, be entitled to deduction from the additional surcharge included  
I in the advance tax, of a sum which shall be equal to—

(a) the sum so deposited, or

(b) the sum calculated in accordance with clause (b) of sub section (3),

whichever is less

*Explanation*—In this sub section, “advance tax” shall have the same meaning as in section 207 of the Income tax Act

(6) Where a person falling under clause (d) of section 2 pays in any year any sum,—

(i) to effect or to keep in force any insurance on the life of such person or on the life of the wife or husband of such person, or

(ii) as a contribution to any provident fund to which the Provident Funds Act, 1925 (XIX of 1925), applies or to any “recognised provident fund” as defined in clause (38) of section 2 of the Income-tax Act, or

(iii) in a ten-year account or a fifteen year account under the Post Office Savings Bank (Cumulative Time Deposit) Rules, 1959, as amended from time to time,

he shall not be liable to make any compulsory deposit under this section for that year if such sum is not less than eleven per cent of his annual income from salary

(7) Where any person falls under any two or more categories referred to in section 2 other than the category referred to in clause (b) of that section, then, he shall make a compulsory deposit at the rate applicable to each of those categories

(8) Any deposit made under this section shall bear simple interest at the rate of four per cent per annum to be calculated from the first day of the month immediately following the month in which the deposit is made to the last day of the month immediately preceding the month in which it is repaid (both days inclusive) and notwithstanding anything in the Income-tax Act, the amount of such interest shall be free of any tax under that Act

(9) Any deposit made under this section during any year shall be repayable with interest thereon at any time after the expiry of five years from the end of the year in which the deposit has been made

Provided that nothing in this sub section shall prevent earlier repayment of any deposit with interest thereon in any case in which the authority empowered to make such repayment is satisfied that genuine hardship will be caused unless such repayment is made

(10) If any doubt or dispute arises as to the amount to be deposited by any person under this Act or as to the date on which such amount is to be deposited or as to any other matter in relation to any deposit to be made under this Act, the decision thereon of the Government or any authority empowered by the Government in this behalf shall be final

**5 Compulsory Deposit Scheme**—(1) The Central Government shall, by notification in the Official Gazette, frame one or more scheme or schemes to be called Compulsory Deposit Scheme or Schemes in relation to deposits under this Act

(2) A scheme framed under sub section (1) may provide for,—

(a) the rates at which and the period for which compulsory deposits shall be made by the several categories of persons to whom this Act applies and the extension of such period,

- (b) the manner (including the deduction of deposits at source) in which and the intervals at which such deposits shall be made, Div 5  
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- (c) the documents to be issued to persons by whom deposits have been made as evidence of such deposits,
- (d) the authority or authorities by or through whom deposits may be collected or by whom penalties for failure to make deposits may be levied,
- (e) the accounts to be maintained with respect to such deposits and the officers by whom such accounts shall be maintained,
- (f) the nomination of any person to receive the amount standing to the credit of a depositor in the event of his death and the cancellation or change of such nomination,
- (g) the issue of duplicate of any document issued as evidence of any deposit in the event of loss or destruction of the original and the fee on the payment of which such duplicate may be issued,
- (h) the exemptions, if any, to be granted in exercise of the powers under section 9,
- (i) the delegation of powers in pursuance of section 10,
- (j) the repayment and withdrawal of deposits with interest thereon and the conditions, if any, under which such repayment or withdrawal may be made,
- (k) any other matter which may be necessary or proper for the effective implementation of the scheme

(3) A scheme framed under this section may provide that all or any of its provisions shall take effect either prospectively or retrospectively on such date as may be specified in this behalf in the scheme

(4) Any scheme framed under this section shall have effect notwithstanding anything contained in any law for the time being in force, other than this Act, or in any instrument having effect by virtue of any law other than this Act

**6 Modification of scheme**—The Central Government may, by notification in the Official Gazette, add to, amend or vary any scheme framed under this Act

**7 Rounding off**—Where the amount of any deposit to be made under this Act contains a part of a rupee, then, if such part is fifty naye paise or more, it shall be increased to one complete rupee and if such part is less than fifty naye paise, it shall be ignored

**8 Power to suspend, reduce or remit the amount of compulsory deposit**—Where the State Government has suspended payment of land revenue, or reduced or remitted the amount of land-revenue, payable in any year in respect of any land, then, the Central Government may, by order, suspend payment of the compulsory deposit, or reduce or remit the amount of such deposit payable in that year under section 4 by a person falling under clause (a) of section 2

**9 Power to exempt**—Where the Central Government is of the opinion that it is necessary or expedient so to do, either in the public interest or having regard to the peculiar circumstances of any case, it may, by notification in the Official Gazette and subject to such conditions, if any, as it may specify in the notification,—

- (a) exempt any person or class of persons from the operation of all or any of the provisions of this Act, and
- (b) cancel any such notification and again subject, by a like notification, the person or class of persons to the operation of such provisions

**10 Power to delegate**—The Central Government may, by notification in the Official Gazette, direct that any power which may be exercised by it under this Act, other than the power under section 5 or the power under this section, shall, subject to such restrictions and conditions, if any, as it may specify in the notification, be exercised also by—

- (a) such officer or authority subordinate to the Central Government,  
or
- (b) such State Government or such officer or authority subordinate to a State Government, or
- (c) such other officer or authority,

as may be specified in the notification

**11 Protection against attachment**—(1) The amount standing to the credit of any depositor shall not be liable to attachment under any decree or order of any court in respect of any debt or liability incurred by the depositor

(2) Any amount standing to the credit of a depositor at the time of his death and payable to his nominee under a scheme shall vest in the nominee and shall be free from any debt or other liability incurred by the deceased or incurred by the nominee before the death of the depositor

**12 Penalty for failure to make deposit**—(1) If any person who is liable to make a deposit under this Act fails to make the same within the time specified therefor, he shall be liable to pay by way of penalty an amount not exceeding half the amount of deposit which he is liable to make

Provided that before levying any such penalty such person shall be given a reasonable opportunity of being heard in respect of the same

(2) Where any person is responsible for paying any income falling under the head "Salaries" as mentioned in the Income-tax Act, then, notwithstanding anything in that Act, in computing the total income of that person under that Act for any assessment year commencing on or after the 1st day of April, 1964, no deduction shall be allowed in respect of payment of any income under that head which in the case of any employee exceeds one thousand five hundred rupees but from which no tax is deductible under the heading "B—Deduction at source" in Chapter XVII of that Act unless a sum equal to the amount which such employee is required to deposit under this Act is deducted from such income at source and is deposited in accordance with the provisions of this Act and the scheme framed thereunder

**13 Recovery of arrears of deposit and penalty**—Any arrear of deposit and any penalty for failure to make such deposit under this Act shall be recoverable in the same manner as an arrear of land revenue

**14 Protection of action taken in good faith**—No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act or any scheme framed thereunder

**15 Power to remove difficulties**—If any difficulty arises in giving effect to the provisions of this Act or of any scheme framed thereunder, the Central

Government may, by order, as occasion requires, do anything (not inconsistent with this Act) which appears to it to be necessary for removing the difficulty

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**16 Scheme to be laid before the Houses of Parliament**—Any scheme framed under this Act shall be laid, as soon as may be, after it is framed before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if before the expiry of that session in which it is so laid or the session or sessions immediately following both Houses agree in making any modification in any provision of the scheme or both Houses agree that any provision in the scheme should not be made, the provision of the scheme shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that provision

# THE COMPULSORY DEPOSIT (INCOME-TAX PAYERS) SCHEME, 1963

(Notification No G S R 889, dated the 25th May, 1963)

In exercise of the powers conferred by section 5 of the Compulsory Deposit Scheme Act, 1963 (XXI of 1963), the Central Government hereby makes the following Scheme, namely —

1 Short title, commencement and application —(1) This Scheme may be called the Compulsory Deposit (Income tax Payers) Scheme, 1963

(2) It shall come into force on the 1st July, 1963

(3) It applies to all persons liable to payment of tax under the Income tax Act, 1961 (XLIII of 1961)

2 Definitions —In this Scheme, unless the context otherwise requires,

(a) "account" means a Compulsory Deposit Account under this Scheme,

(b) "Act" means the Compulsory Deposit Scheme Act, 1963 (XXI of 1963),

(c) "assessment year" means a period of twelve months commencing on the 1st day of April every year,

(d) "depositor" means a person by whom or on whose behalf money is deposited under this Scheme,

(e) "deposit office" means—

(i) a Head Post Office or a Departmental Sub Post Office transacting savings bank business,

(ii) an office of the Reserve Bank of India and a branch or office of the State Bank of India and any subsidiary bank of the State Bank of India excluding such office or branch as may be notified by the Central Government\*, and

(iii) an office or branch of any other bank authorised by the Central Government to accept deposits, under this Scheme excluding any office or branch of such Bank as may be notified by the Central Government,

(f) "officer in charge" includes an officer empowered under the rules of the deposit office to deal with the work relating to this Scheme,

(g) "Form" means a form set out in the Schedule to this Scheme

3 Limits of deposit —(1) A depositor may deposit money under this Scheme up to the limits specified below

|                                              |                                                                       |
|----------------------------------------------|-----------------------------------------------------------------------|
| Where his residual income is Rs 6000 or less | 3 per cent of such residual income                                    |
| Where his residual income exceeds Rs 6000    | 3 per cent of the first Rs 6000 and 2 per cent of the balance thereof |

\*The offices of the Reserve Bank of India in Lucknow, Patna, Jaipur, Hyderabad, Gauhati, Srinagar, Indore, Bhubaneswar, Ahmedabad and Trivendrum and the Local Head Offices of the State Bank of India in Bombay, Calcutta, Madras and New Delhi and the Pay Offices of the State Bank of India are excluded with effect from the 1st July, 1963 Notification No G S R 1110, dated the 29th June, 1963

Provided that where the total income of a depositor for the assessment year commencing on the 1st day of April, 1963, includes any income chargeable under the head "Salaries", the deposit shall be limited to the amount bearing to the maximum amount of the deposit specified in this sub paragraph the same proportion as the total income as reduced by the amount chargeable under the heads—

(a) "Salaries", and

(b) "Capital gains", if any,

bears to the total income as reduced by the amount referred to in clause (b)

*Explanation*—In this sub-paragraph, the expressions "Capital gains", and "total income" have the meanings respectively assigned to them in section 45 and clause (45) of section 2 of the Income-tax Act, 1961

(2) Where the amount of any deposit to be made under this Scheme contains a part of a rupee, then, if such part is fifty naye paise or more, it shall be increased to one complete rupee and if such part is less than fifty naye paise, it shall be ignored

**4 Manner of deposit**—(1) A person by whom additional surcharge is payable in respect of any assessment year may make a deposit under this Scheme in respect of that year on or before the close of the year immediately preceding that assessment year and if he does so, then, he shall be entitled to deduction from the additional surcharge of a sum equal to the sum so deposited or the maximum amount of deposit specified in sub paragraph (1) of paragraph 3, whichever is less

Provided that in respect of the assessment year commencing on the 1st day of April, 1963, the depositor may make the deposit any time within 30 days of the service of the notice of demand referred to in section 156 of the Income-tax Act, 1961, for that year or by the 31st day of March, 1964, whichever is earlier

Provided further that where an assessment in respect of the assessment year commencing on the 1st day of April, 1963, has been completed before this Scheme comes into force, the depositor may make the deposit for that year within three months from the date of commencement of this Scheme and if he does so, he shall be entitled to a deduction from the additional surcharge and to a refund of the excess amount, if any, of the additional surcharge already paid by him

(2) Any person who is in receipt of any income under the head "Salaries" during the financial year may make a deposit in that year and if he does so, then, he shall be entitled to deduction from the additional surcharge of a sum equal to the sum so deposited or the maximum amount of deposit as specified in sub-paragraph (1) of paragraph 3, whichever is less

(2A) Where any person to whom this Scheme applies receives in any year any income which is chargeable to tax under the Income tax Act, 1961, under the head "Salaries" as being his income relating to any previous year prior to the year in which it is received, he may, notwithstanding the provisions of sub paragraph (2), make a deposit in relation to such income in the year in which it is received. The amount so deposited shall be deemed for the purposes of sub-paragraph (2) of paragraph 4 to have been deposited in the relevant previous year to which the aforesaid income relates, but for the purposes of calculation of interest thereon and of repayment thereof, the provisions of paragraphs 10 and 11 shall apply

(3) Any person who is liable to pay advance tax under the Income-tax Act, 1961, in any financial year may make a deposit in that year and if he does so, then, he shall be entitled to a deduction from the additional surcharge of a sum equal to the sum so deposited or the maximum amount specified in sub-paragraph (1) of paragraph 3, whichever is less

(4) Every person desiring to make a deposit under this Scheme for the first time shall apply to the deposit office in Form A, or as near thereto as may be, together with the amount of deposit

(5) On receipt of an application under sub paragraph (4), the deposit office shall open an account in the name of the depositor and issue a pass book to the depositor wherein all amounts deposited by him shall be entered over the signature of the officer in charge with the date stamp

(6) Every deposit shall be made in cash or by crossed cheque drawn in favour of the deposit office on a bank at the place where the deposit office is situated into the office at which the account stands

Provided that where the deposit is made into a post office such deposit may be made by cheques only at places where clearing house facilities are available

(7) Every deposit shall be evidenced by receipt issued in Form B, or as near thereto as may be, by the deposit office

4A Employees becoming liable to pay income-tax —(1) Where a person in whose name an account has been opened with the deposit office under the \*Compulsory Deposit (Employees) Scheme, 1963, becomes liable in any year to payment of tax under the Income tax Act, 1961, then, notwithstanding anything contained in this Scheme, the deposit made in the said account in that year shall be deemed to be a deposit made by him under this Scheme and the person shall be deemed to be a depositor for all purposes of this Scheme

(2) The person deemed to be a depositor under sub-paragraph (1) may open an account under this Scheme in accordance with the provisions contained in sub paragraph (4) of paragraph 4 in the year in which he becomes liable to payment of tax under the Income tax Act, 1961, and deposit money in that year up to the limits specified in sub paragraph (1) of paragraph 3 taking into account the amount deemed to have been deposited under this Scheme under sub-paragraph (1)

(3) Any person employed in an establishment to which the provisions of sub-paragraphs (3) to (22) of paragraph 10A of the \*Compulsory Deposit (Employees) Scheme, 1963, apply, may, on that Scheme ceasing to apply to him in any year on account of his becoming liable to payment of tax under the Income tax Act, 1961, then, notwithstanding anything contained in this Scheme, open an account in that year under this Scheme in accordance with the provisions contained in sub-paragraph (4) of paragraph 4 and deposit money in that year up to the limits of deposit specified in sub-paragraph (1) of paragraph 3

(4) For the purposes of claiming deduction from additional surcharge payable by him—

- (a) the person deemed to be a depositor under sub paragraph (1) shall, in addition to the documents specified in sub paragraph (1) of paragraph 5, forward the statement issued to him by his employer under the \*Compulsory Deposit (Employees) Scheme, 1963, to the Income-tax Officer and produce the pass book handed over to

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\* This Scheme was withdrawn from the 23rd September, 1963

him by the employer to the Officer, if he requires it for the purpose of verification, Div - H

(b) the person referred to in sub-paragraph (3) shall forward the documents specified in sub paragraph (1) of paragraph 5

**5 Procedure for claiming deduction from additional surcharge.**—(1) The receipts or the certificate issued by the deposit office shall be forwarded along with the return of income filed before the Income-tax Officer in proof of having made the deposit. The Income-tax Officer may, for the purposes of verification, require the depositor to produce the pass book issued to him.

(2) Any person who is in receipt of any income under the head "Salaries" during any financial year may forward a statement to the person responsible for paying that income declaring the amount he has already deposited under this Scheme and the amount, if any, which he would further deposit before the close of that year. The person responsible for paying the salaries may, for the purposes of verification, require the depositor to produce the pass book issued to him.

(3) Any person who is liable to pay advance tax under the Income-tax Act, 1961, in any financial year may, on or before the 31st of March of that year, forward a statement to the Income-tax Officer concerned declaring the amount which he has already deposited under this Scheme. The Income-tax Officer may, for the purposes of verification, require the depositor to produce the receipts, and if any such receipt is lost, a certificate, or the pass book issued to him.

**6 Deposits on behalf of minors**—Any person may apply to a deposit office for opening an account on behalf of a minor.

**7 Number of deposits**—The amount to be deposited in any year may be deposited either in one lump sum or in two or more instalments in that year.

Provided that not more than one deposit shall be made in any month.

**8. Transfer of account**—A depositor may apply for transfer of his account from one post office to another, from one office of the Reserve Bank of India to another or from any branch or office of the State Bank of India or its subsidiary bank to any of its other branches or offices.

**9 Issue of duplicate pass books, etc**—(1) In the event of loss or destruction of a pass book issued by the deposit office, the office may, on application made to it in this behalf and on payment of Re 1 issue a duplicate thereof.

(2) A deposit office may on application made to it in this behalf and on payment of a fee of Re 1 grant the applicant a certificate in respect of a deposit or deposits made by the applicant under this Scheme during the year.

**10 Interest**—The deposit made under this Scheme shall bear simple interest at the rate of four per cent per annum to be calculated from the first day of the month immediately following the month in which the deposit is made to the last day of the month immediately preceding the month in which it is repaid (both days inclusive) and the amount of such interest shall be free of any tax under the Income-tax Act, 1961.

**11 Repayment**—(1) The amount deposited in any year in excess of the limits specified in sub-paragraph (1) of paragraph 3, shall, at the option of the depositor on his producing a certificate from the Income-tax Officer indicating the maximum amount of deposit payable by him under this Scheme for that year, either be repaid with interest or subject to the



provisions of sub-paragraph (2) of this paragraph and paragraph 10 deemed to be the deposit for the year in which the income-tax assessment of the income of the year to which the excess deposit relates is completed

(2) Subject to the provisions contained in sub-paragraph 3, any deposit made under this Scheme during any year shall be repayable with interest thereon at the office at which the account stands after the expiry of five years from the end of the year in which the deposit was made

(3) The depositor or, in the event of his death, his nominee or heir may apply to the deposit office for earlier repayment of the amount standing to the credit of the depositor. The officer in charge of the deposit office shall, after verifying the account of the depositor, forward the application to the authority empowered by the Central Government in this behalf. On receipt of the application the authority shall, by order in writing, authorise the deposit office to repay the deposit, together with interest thereon, if the authority is satisfied that genuine hardship would be caused unless such earlier repayment is made

(4) The repayment of a deposit shall be made only on the production of the pass book accompanied by an application in Form C, or as near thereto as may be

**12 Repayment where the account is held on behalf of a minor**—(1) Subject to the provisions contained in sub-paragraph (2) of paragraph 11, repayment of the deposit together with interest thereon standing to the credit of a minor may be made, during the period of his minority, to his parent or guardian for the use of the minor

(2) Subject to the provisions contained in sub-paragraph (1) of paragraph 11, any amount deposited in excess of the limits specified in sub-paragraph (1) of paragraph 3 in the account of a minor may, during his minority, be refunded to the person who opened the account on behalf of the minor or, if that person is dead, to the parent or guardian of the minor

(3) An account opened on behalf of a minor shall be operated upon by him on his attaining majority under the Indian Majority Act, 1875 (IX of 1875), and on his being identified to the satisfaction of the officer in charge of the deposit office

**13 Nomination**—(1) A depositor who is an individual may nominate in Form D, or as near thereto as may be, one or more persons, who shall be entitled to receive the deposit to his credit with interest thereon, in the event of his death before the amount has become payable or, having become payable, has not been paid

(2) Where the deposit, together with the interest thereon, is payable to two or more nominees and either or any of them is dead, the amount shall be paid to the surviving nominee or nominees

(3) No nomination shall be made in respect of an account opened and held on behalf of a minor

(4) A nomination made by a depositor may be cancelled or varied by a fresh nomination in Form E, or as near thereto as may be, by giving notice in writing to the deposit office in which the account stands

(5) Every nomination and every cancellation or variation thereof shall be registered in the deposit office and shall be effective from the date of such registration, the particulars of which shall be entered in the pass book

(6) If the nominee is a minor, the depositor may appoint any person to receive the amount due under the account, in the event of his death during the minority of the nominee Div 5  
H

14. *Protection against attachment* —The amount standing to the credit of any depositor shall not be liable to attachment under any decree or order of any court in respect of any debt or liability incurred by the depositor

## SCHEDULE

### FORM A

[See paragraph 4(4)]

*Application for opening a compulsory deposit account under the Compulsory Deposit (Income-tax Payers) Scheme, 1963*

To

The

I/We hereby apply for opening an account under the Compulsory Deposit (Income-tax Payers) Scheme, 1963, in the name (s) of  
son/daughter/wife of \_\_\_\_\_ and tender here-  
with Rs \_\_\_\_\_ (Rupees \_\_\_\_\_ only)  
in cash/cheque as the initial amount of deposit

\*If the account is to  
be opened on behalf  
of a minor

Date of birth of the  
minor

Applicant's relationship with the  
minor, if any

*Specimen signature of the  
depositor/guardian/  
other person*

*Signature of the depositor/guardian/  
other person*

*Permanent address*

The account has been opened on \_\_\_\_\_ with  
Rs \_\_\_\_\_ under Compulsory Deposit Account No  
Pass Book has been issued

*Date Stamp*

*Signature of the Officer in charge*

\*Strike out if not applicable

### FORM B

[See paragraph 4(7)]

*Receipt for the deposit under the Compulsory Deposit (Income-tax Payers) Scheme, 1963*

Name of the deposit office

Receipt No

Received Rs \_\_\_\_\_ (Rupees \_\_\_\_\_ for credit  
only) from \_\_\_\_\_  
into Compulsory Deposit Account No \_\_\_\_\_

*Date Stamp*

*Signature of the Officer in charge*

## FORM C

[See paragraph 11(4)]

*Application for repayment of the deposits under the Compulsory Deposit  
(Income tax Payers) Scheme, 1963*

To

Date

Place

I wish to withdraw the amount deposited by me during the year 19  
in my Compulsory Deposit Account No \_\_\_\_\_ together  
with interest thereon The Pass Book is enclosed

*Signature of the depositor*

---

(To be filled in by the deposit office)

Amount deposited in Account No

in the year 19 \_\_\_\_\_ Rs

Interest up to \_\_\_\_\_ Rs

Total \_\_\_\_\_ Rs

Passed for payment of Rs \_\_\_\_\_ (Rupees  
\_\_\_\_\_)

*Signature of the Officer in charge*

Received payment as above

*Signature of the depositor*

---

NOTE —If the depositor desires to collect the amount through his banker or messenger,  
he shall send a separate letter of authority in favour of his banker/messenger  
along with the pass book and the application form, duly completed

## FORM D

[See paragraph 13(1)]

*Nomination under the Compulsory Deposit (Income tax Payers) Scheme, 1963*

To

The

I hereby nominate the person/persons mentioned below to whom, in  
the event of my death, the amount standing to my credit in Compulsory  
Deposit Account No \_\_\_\_\_ at the time of my death would be payable

5 as the person to receive the sum due under the said Account in the event of my death during the minority of the nominee/nominees

*Signature of depositor*

*Witness*

The nomination has been registered  
on \_\_\_\_\_ and an  
entry made in the Pass Book

*Date Stamp*

*Signature of the Officer in charge*

\* To be filled in case of replacement only

Provided that such income shall be included in the total income—

<sup>19</sup>[(a) if it is applied to religious or charitable purposes without the taxable territories, but in the following cases, namely—

- (i) where the property is held under trust or other legal obligation created before the commencement of the Indian Income tax (Amendment) Act, 1953 (25 of 1953), and the income therefrom is applied to such purposes without the taxable territories, and
- (ii) where the property is held under trust or other legal obligation created after such commencement, and the income therefrom is applied without the taxable territories to charitable purposes which tend to promote international welfare in which India is interested,

the Central Board of Revenue may, by general or special order, direct that it shall not be included in the total income,]

(b) in the case of income derived from business carried on on behalf of a religious or charitable institution, unless the income is applied wholly for the purposes of the institution and either—

(i) the business is carried on in the course of the actual carrying out of a primary purpose of the institution, or

(ii) the work in connection with the business is mainly carried on by beneficiaries of the institution,

(c) if it is applied to purposes other than religious or charitable purposes or ceases to be accumulated or set apart for application thereto in which case it shall be deemed to be the income of the year in which it is so applied or ceases to be so accumulated or set apart]

(u) Any income of a religious or charitable institution derived from voluntary contributions and applicable solely to religious or charitable purposes

<sup>20</sup>[(u a) Any income of an association or institution established in India having as its object the control, supervision, regulation or encouragement in India of the games of cricket, hockey, football, tennis or such other games or sports as the Central Government may specify in this behalf from time to time by notification in the Official Gazette

Provided that—

(i) the association or institution applies its income or accumulates it for application, solely to the objects for which it is established,

(ii) no part of the income of the association or institution is distributed in any manner to its members except as grants to any association or institution affiliated to it, and

<sup>19</sup> Substituted by s 4 of the Finance Act, 1955, with effect from the 1st April, 1955

<sup>20</sup> Inserted by s 3 of the Finance Act, 1961, with effect from the 1st April, 1961

and the association or institution, for the time being, approved by the President of the Council of the Central Government by general or special order.]

(a) The income of the authorities<sup>21</sup> (except income from a trade or business carried on by the authority) so far as that income is not received arising from the supply of a commodity or service within its own territorial area;

(b) Interest on securities which are held by or are the property of, any Provident Fund to which the Provident Funds Act, 1927 (XIX of 1927), applies,<sup>22</sup> and any capital gains of the Fund arising from the sale, exchange or transfer of such securities.]

§ 12 \* \* \* \* \*

[(11) Any special allowance or benefit, not being in the nature of an entertainment allowance or other payment to which the meaning of sub-section (1) of section 7, specially granted to meet expenses wholly and necessarily incurred in the performance of the duties of an officer or employment of profit, to the extent to which such expenses are actually incurred for that purpose.]

[(12) Subject to such conditions as the Central Government may prescribe,—

(a) payment of money or the value of any free or concessional passage received by or due to any person, not being a citizen of India, from his employer for himself, his wife and children, in connection with his proceeding on home leave out of India; and

(b) the value of any travel concession or assistance received by or due to any person, being a citizen of India, from his employer for himself, his wife and children, in connection with his proceeding on leave to his home town or village in India.]

(13) Any receipts<sup>23</sup> (not being capital gains chargeable according to the provisions of section 12B and) not being receipts arising from business or the exercise of a profession, vocation or occupation, which are of a casual and non-recurring nature, or are not by way of addition to the remuneration of an employee.

(14) Agricultural income

[(15) Any income received by trustees on behalf of a recognised provident fund as defined in clause (a) of section 55A.]

<sup>21</sup> Inserted by s. 1 of the Indian I.T. (Amendment) Act, 1939 (7 of 1939)

<sup>22</sup> Substituted for "1927", *ibid*

<sup>23</sup> "Or any Provident Insurance Society to which the Provident Insurance Societies Act, 1912, is or but for an exemption under that Act would be applicable" omitted by s. 1 of the Indian I.T. (Amendment) Act, 1921 (11 of 1921)

<sup>24</sup> Inserted by s. 7 of the I.T. and I.T. (Amendment) Act, 1947 (22 of 1947)

<sup>25</sup> Omitted by s. 1 of the Indian I.T. (Amendment) Act, 1939 (7 of 1939)

<sup>1</sup> Substituted by s. 1 of the Finance Act, 1955 with effect from the 1st April, 1955

<sup>2</sup> Inserted by s. 1 of the Finance Act, 1955 with effect from the 1st April, 1955, and substituted by s. 1 of the Finance Act, 1958, with effect from the 1st April, 1958

<sup>3</sup> Inserted by s. 2 of the Indian I.T. (Provident Funds Rules) Act, 1929 (12 of 1929)

4[(x) Any income received—

- (a) by the Ruler of an Indian State as his privy purse under article 291 of the Constitution,
- (b) by any ambassador, high commissioner, envoy, minister, *charge d'affaires*, commissioner, counsellor or the secretary, adviser or attaché of an embassy, high commission, legation or commission of a foreign State as remuneration from such State for service in such capacity,
- (c) by a *consul de carrière*, whether called a consul-general, consul, vice consul, consular agent, pro consul or by any other name, of a foreign State as remuneration from such State for service in such capacity,
- (d) by a trade commissioner or other official representative in India of the Government of a foreign State (not holding office as such in an honorary capacity) as his remuneration if the remuneration of the corresponding officials, if any, of the Government resident for similar purposes in the country concerned enjoys a similar exemption in that country,
- (e) by a member of the staff of any of the officials referred to in clause (b) or clause (c) or clause (d) as his remuneration if the member—
  - (i) is a subject of the country represented,
  - (ii) is not engaged in any business, profession, vocation or employment in India otherwise than as a member of such staff, and further, where the individual is a member of the staff of any official referred to in clause (d), if the country represented has made corresponding provisions for similar exemptions in the case of members of the staff of the corresponding officials of the Government ]

“(x a) Any allowances or perquisites paid or allowed as such without the taxable territories by the Government to a citizen of India for rendering service without the taxable territories ]

6[(xi) With effect from the 2nd day of September, 1939, the income chargeable under the head “Salaries” of a Nepalese member of the Nepalese Military Force serving with His Majesty’s Forces, [or, after the commencement of the Constitution, with the Armed Forces of the Union] or of any member of an Indian State Force so serving, and any other income accruing or arising without <sup>8</sup>[the taxable territories] which is received in or brought into <sup>8</sup>[the taxable territories] by any such member while the Force to which he belongs is serving with His Majesty’s Forces <sup>9</sup>[or, after the commencement of the Constitution, with the Armed Forces of the Union] ]

<sup>4</sup> Inserted by s 3 of the Indian I T (Amendment) Act, 1941 (23 of 1941), and substituted by s 3 of the Finance Act, 1959, with effect from the 1st April, 1959, for the purpose of making any deductions of income tax and super tax under s 18(2), and from the 1st April, 1960, for other purposes

<sup>5</sup> Inserted by s 3 of the Finance Act 1959, with effect from the 1st April, 1959, for the purpose of making any deductions of income-tax and super tax under s 18(2), and from the 1st April, 1960 for other purposes

<sup>6</sup> Inserted by s 3 of the Indian I T (Amendment) Act 1941 (23 of 1941)

<sup>7</sup> Inserted by the Adaptation of Laws Order, 1950

<sup>8</sup> Substituted for “ British India ”, *ibid*

<sup>9</sup> Inserted *ibid*

- <sup>10</sup>[(xi a) Any income chargeable under the heads "Interest on securities", "Income from property" and "Income from other sources" of S a registered Trade Union within the meaning of the Indian Trade Unions Act, 1926 (XVI of 1926), formed primarily for the purpose of regulating the relations between workmen and employers or between workmen and workmen ]
- <sup>11</sup>[(xii) Any income chargeable under the head "Income from property" in respect of a building the erection of which is begun and completed between the 1st day of April, 1946, and the 31st day of March, <sup>12</sup>[1956] (both dates inclusive), for a period of two years from the date of such completion ]
- <sup>13</sup>[(xiii) Any income of a scientific research association which is, for the time being, approved for the purposes of clause (xiii) of subsection (2) of section 10 where the income is applied solely to the purposes of that association and accrues or arises after the 31st day of March, 1949 ]
- <sup>14</sup>[(xiv) Any income received by an employee of a foreign enterprise, not engaged in any trade or business in the taxable territories, as remuneration for services rendered by him during the course of his stay in the taxable territories, where such stay does not exceed in the aggregate a period of ninety days in any year and where such remuneration is not liable to be deducted from the income, profits and gains chargeable under this Act
- <sup>15</sup>[(xv a) Any income chargeable under the head "Salaries" received by or due to any person, not being a citizen of India, during the financial year in which he arrived in India and the financial year next following as remuneration for services rendered by him as a technician in the employment of Government or of a local authority or of any corporation set up under any special law or in any business carried on in India, in any case where such person was not resident therein in any of the four financial years immediately preceding the financial year in which he arrived in India

Provided that where, during the financial year of arrival and the year next following, such person had been in India for a period of, or for periods amounting in all to, three hundred and sixty-five days or more, only so much of the income aforesaid as is received by or due to him for a period of three hundred and sixty-five days in all commencing from the date of his arrival shall not be included in his total income

<sup>10</sup> Inserted by s 3 of the Finance Act, 1958, with effect from the 1st April, 1958

<sup>11</sup> Inserted by s 2 of the Indian I T (Amendment) Act, 1946 (8 of 1946)

<sup>12</sup> "1952" was substituted for "1950" by s 3 of the Finance Act, 1950 (25 of 1950), with effect from the 1st April, 1950, "1954" was substituted for "1952" by s 3 of the Indian I T (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952, and "1956" was substituted for "1954" by s 3 of the Finance Act, 1954 (17 of 1954), with effect from the 1st April, 1954

<sup>13</sup> Inserted by s 9 of the Taxation Laws (Extension to Merged States and Amendment) Act, 1949 (67 of 1949)

<sup>14</sup> The original cls (xiv), (xv), (xvi), (xvii), (xviii) and (xix) were inserted by s 3 of the Indian I T (Amendment) Act, 1953 (25 of 1953) The amendment shall be deemed to be operative in relation to all assessments for any year whether such assessments have or have not been completed before the commencement of the Indian Income tax (Amendment) Act, 1953

<sup>15</sup> Inserted by s 4 of the Finance Act, 1955, and substituted by s 4 of the Finance Act, 1956, with effect from the 1st April, 1955



<sup>16</sup>[Provided further that in the case of a person referred to in this clause whose contract of service was approved by the Central Government before the commencement of his service, this clause shall have effect as if for the words "during the financial year in which he arrived in India and the financial year next following", the words "during the thirty-six months commencing from the date of his arrival in India" had been substituted and as if the proviso immediately preceding had been omitted]

Provided also that where a person referred to in the proviso immediately preceding continues to remain in employment in India after the expiry of the thirty-six months commencing from the date of his arrival in India, the employer may, notwithstanding anything contained in section 200 of the Companies Act, 1956 (I of 1956), pay to the Central Government the tax on the income of such person chargeable under the head "Salaries" for a period not exceeding twenty four months following the expiry of the said thirty-six months and if the tax is so paid it shall not be included in his total income of the said period ]

<sup>17</sup>[*Explanation* — "Technician" means a person having specialised knowledge and experience in constructional or manufacturing operations, or in mining or in the generation or distribution of electricity or any other form of power, who is employed in India in a capacity in which such specialised knowledge and experience are actually utilised ]]

<sup>18</sup>[(xiv-b) Any income chargeable under the head "Salaries" received by or due to a person, not resident in the taxable territories and not being a citizen of India, as remuneration for services rendered in connection with his employment on a foreign ship where his total stay in the taxable territories does not exceed in the aggregate a period of ninety days in the previous year ]

(xv) Any income received as remuneration, whether directly or indirectly, from the Government of a foreign State by any person who is assigned to duties in India in connection with any co-operative technical assistance programmes and projects in accordance with an agreement entered into by the Central Government and the Government of that foreign State (the terms whereof provide for the exemption given by this clause) and any other income of such person or of the members of his family accompanying him to India, which accrues or arises without the taxable territories, and is not deemed to accrue or arise in the taxable territories, upon which such person or the members of his family are required to pay any income or social security tax to the Government of that foreign State

(xvi) Any income from interest on, or from premium on the redemption of, any bonds issued by the Central Government under a loan agreement between the Central Government and the International

<sup>16</sup> Substituted for the original proviso by s 3 of the Finance Act, 1961, with effect from the 1st April, 1961

<sup>17</sup> Substituted by s 3 of the Finance Act 1958. The amendment shall not apply (a) to a person to whom the second proviso to s 4 (3) (xiv a) applies if his contract of service has been approved by the Central Government before the 1st March, 1958, or (b) to any other person who has arrived in India before the 1st April 1958

<sup>18</sup> Inserted by s 2 of the Taxation Laws (Amendment) Act, 1960 (28 of 1960), with effect from the 1st April, 1960

Bank for Reconstruction and Development <sup>19</sup>[or under a loan agreement between the Central Government and the Development Loan Fund of the United States of America], or by any industrial undertaking or financial corporation in India under a loan agreement with the said Bank <sup>19</sup>[or Fund, as the case may be,] which is guaranteed by the Central Government, except where the holder of such bond is a person resident in the taxable territories

<sup>20</sup>[(xvii) Monthly payments on the 15 Year Annuity Certificates issued by or under the authority of the Central Government or such other annuity certificates issued by or under the authority of that Government as that Government may, by notification in the Official Gazette, specify in this behalf, to the extent to which the amounts of the certificates do not exceed in each case the maximum amount which is permitted to be invested therein

(xvii-a) Interest on Treasury Savings Deposit Certificates, Post Office Cash Certificates, Post Office National Savings Certificates, National Plan Certificates, 12 Year National Plan Savings Certificates and such other certificates issued by the Central Government as that Government may, by notification in the Official Gazette, specify in this behalf, and interest on deposits in Post Office Savings Banks, to the extent to which the amounts of such certificates or deposits do not exceed in each case the maximum amount which is permitted to be invested or deposited therein ]

<sup>21</sup>[(xvii-b) Interest payable—

- (i) by Government or a local authority on moneys borrowed by it from sources outside India from any person not resident in India or from any institution established outside India,
- (ii) by an industrial undertaking in India on moneys borrowed by it under a loan agreement entered into with any such financial institution in a foreign country as may be approved in this behalf by the Central Government by general or special order,
- (iii) by an industrial undertaking in India on any moneys borrowed or debt incurred by it in a foreign country in respect of the purchase outside India of capital plant and machinery in any case where the loan or debt is approved by the Central Government, having regard to its terms generally and in particular, to the terms of its repayment ]

(xviii) Interest on securities held by the Issue Department of the Central Bank of Ceylon constituted under the Ceylon Monetary Law Act, 1949

(xix) Any daily allowance received by any person, by reason of his membership of the Dominion Legislature or of the Constituent

<sup>19</sup> Inserted by s 3 of the Finance Act, 1961, with effect from the 1st April, 1961

<sup>20</sup> Substituted by s 2 of the Taxation Laws (Amendment) Act, 1960 (28 of 1960), with effect from the 1st April, 1960. The original clauses were substituted for cl (xvii) by s 4 of the Finance Act, 1955, with effect from the 1st April, 1955

<sup>21</sup> Inserted by s 3 of the Finance (No 2) Act, 1957. The amendment, for the purposes of making any deduction of income tax under sub sec (2) or (2B) of s 18 shall have effect on and from the 1st April, 1957, and for other purposes shall have effect on and from the 1st April, 1958

Assembly or of Parliament or of any Provincial or State Legislature or of any Committee thereof ]

<sup>22</sup> [(xx) Any income from interest payable without the taxable territories on a loan issued for public subscription before the 1st day of April, 1938, where such interest is payable to a person not resident in the taxable territories, but such income shall not be excepted from being included in his total world income notwithstanding anything in clause (15) of section 2 ]

<sup>23</sup> [(xxi) Any income of a member of a Scheduled Tribe, as defined in clause (25) of article 366 of the Constitution, residing in any area specified in Part A or Part B of the table appended to paragraph 20 of the Sixth Schedule to the Constitution <sup>24</sup>[or in the Union territories of Manipur and Tripura], provided that such member is not in the service of Government

(xxii) Any payment made, whether in cash or in kind, by the Central Government or any State Government in pursuance of gallantry awards instituted or approved by the Central Government ]

In this sub section "charitable purpose" includes relief of the poor, education, medical relief and the advancement of any other object of general public utility, <sup>25</sup>[but nothing contained in clause (i) <sup>1\*</sup> \* \* or clause (ii) shall operate to exempt from the provisions of this Act that part of the <sup>2</sup>[income from property held under a trust or other legal obligation for private religious purposes] which does not enure for the benefit of the public]

<sup>3</sup>[4A Residence in <sup>4</sup>[the taxable territories]—For the purposes of this Act—

(a) any individual is resident in <sup>4</sup>[the taxable territories] in any year if he—

(i) is in <sup>4</sup>[the taxable territories] in that year for a period amounting in all to one hundred and eighty two days or more, or

(ii) maintains or has maintained for him a dwelling place in <sup>4</sup>[the taxable territories] for a period or periods amounting in all to one hundred and eighty-two days or more in that year, and is in <sup>4</sup>[the taxable territories] for any time in that year, or

(iii) having within the four years preceding that year been in <sup>4</sup>[the taxable territories] for a period of or for periods amounting in all to three hundred and sixty-five days or more, is in

<sup>2</sup> Inserted by s 3 of the Finance Act, 1954 (17 of 1954) with effect from the 1st April, 1954

<sup>3</sup> Inserted by s 4 of the Finance Act, 1955 The amendment is not only effective as from the 1st April, 1955 but also applies to all assessments for any earlier year whether such assessments have been completed or not (See s 20 of the Finance Act, 1955)

<sup>4</sup> These words were inserted by s 3 of the Finance Act 1958, and shall be deemed always to have been in the Act

<sup>25</sup> Inserted by s 4 of the Indian I T (Amendment) Act 1939 (7 of 1939)

<sup>1</sup> ' Clause (ia)' omitted by s 3 of the Indian I T (Amendment) Act, 1953 (25 of 1953) with effect from the 1st April, 1952

<sup>2</sup> Substituted for ' income of a private religious trust ' *ibid*, with effect from the 1st April 1952

<sup>3</sup> Secs 4A and 4B were inserted by s 5 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>4</sup> Substituted for ' British India ' by the Adaptation of Laws Order, 1950

[the taxable territories] for any time in that year other than on an occasional or casual visit,<sup>5</sup> [or]

<sup>1</sup>[(11) is in "[the taxable territories] for any time in that year and the Income-tax Officer is satisfied that such individual having arrived in "[the taxable territories] during that year is likely to remain in "[the taxable territories] for not less than three years from the date of his arrival,]

(b) a Hindu undivided family, firm or other association of persons is resident in "[the taxable territories] unless the control and management of its affairs is situated wholly without "[the taxable territories], and

<sup>6</sup>[(c) a company is resident in the taxable territories in any year, if—

(i) it is an Indian company, or

(ii) during that year the control and management of its affairs is situated wholly in the taxable territories ]

**4B Ordinary residence**—For the purposes of this Act—

(a) an individual is "not ordinarily resident" in "[the taxable territories] in any year if he has not been resident in "[the taxable territories] in nine out of the ten years preceding that year or if he has not during the seven years preceding that year been in "[the taxable territories] for a period of, or for periods amounting in all to, more than two years,

(b) a Hindu undivided family is deemed to be ordinarily resident in "[the taxable territories] if its manager is ordinarily resident in "[the taxable territories],

(c) a company, firm or other association of persons is ordinarily resident in "[the taxable territories] if it is resident in "[the taxable territories] ]

## CHAPTER II

### INCOME TAX AUTHORITIES

<sup>8</sup>[5. **Income-tax authorities**—(1) There shall be the following classes of income tax authorities for the purposes of this Act, namely —

(a) the Central Board of Revenue,

<sup>9</sup>[(aa) Directors of Inspection,]

(b) Commissioners of Income tax,

(c) Assistant Commissioners of Income tax who may be either Appellate Assistant Commissioners of Income tax or Inspecting Assistant Commissioners of Income-tax,

(d) Income-tax Officers,

<sup>9</sup>[(e) Inspectors of Income tax ]

<sup>9</sup>[(1A) The Central Government may appoint as many Directors of Inspection as it thinks fit, and Directors of Inspection shall, subject to the

<sup>5</sup>Inserted by s 4 of the Indian I T (Amendment) Act, 1941 (23 of 1941) Effect to this amendment shall not be given in the making of any assessment for any year before the year ending 31st March, 1943

<sup>6</sup>Substituted by s 4 of the Finance Act, 1958, with effect from the 1st April, 1958

Substituted for "British India" by the Adaptation of Laws Order, 1950

<sup>8</sup>Substituted by s 6 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>9</sup>Inserted by s 4 of the Indian I T (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952

control of the Central Board of Revenue, perform such functions of any other Income tax authority as may be assigned to them by the Central Government ]

<sup>10</sup>[(2) The Central Government may appoint as many Commissioners of Income tax as it thinks fit and they shall perform their functions in respect of such areas or of such persons or classes of persons or of such incomes or classes of incomes or of such cases or classes of cases as the Central Board of Revenue may direct, and where such directions have assigned to two or more Commissioners of Income tax the same area or the same persons or classes of persons or the same income or classes of incomes or the same cases or classes of cases, they shall have concurrent jurisdiction subject to any orders which the Central Board of Revenue may make for the distribution and allocation of work to be performed

(3) The Central Government may appoint as many Appellate or Inspecting Assistant Commissioners of Income-tax and Income tax Officers of Class I service as it thinks fit, and the Commissioner may, subject to the rules and orders of the Central Government regulating the conditions of service of persons in public services and posts, appoint as many Income-tax Officers of Class II service and Inspectors of Income tax as may, from time to time, be sanctioned by the Central Government

(3A) Subject to the rules and orders of the Central Government regulating the conditions of service of persons in public services and posts, an Income tax authority may appoint such executive or ministerial staff as may be necessary to assist it in the execution of its functions ]

(4) Appellate Assistant Commissioners of Income-tax shall be under the direct control of the Central Board of Revenue and shall perform their functions in respect of such persons or classes of persons <sup>11</sup>[or of such incomes or classes of income or] in respect of such areas as the Central Board of Revenue may direct, <sup>12</sup>[and, where such directions have assigned to two or more Appellate Assistant Commissioners of Income tax, the same persons or classes of persons or the same incomes or classes of income or the same area] in accordance with any orders which the Central Board of Revenue may make for the distribution and allocation of the work to be performed

(5) Inspecting Assistant Commissioners of Income tax and Income tax Officers shall perform their functions in respect of such persons or classes of persons <sup>13</sup>[or of such incomes or classes of income or] in respect of such areas as the Commissioner of Income-tax may direct, <sup>14</sup>[and, where such directions have assigned to two or more Inspecting Assistant Commissioners of Income-tax or Income tax Officers, the same persons or classes of persons or the same incomes or classes of income or the same area] in accordance with any orders which the Commissioner of Income tax may make for the distribution and allocation of the work to be performed The Commissioner may, <sup>15</sup>\* \* \* by general or special order in writing,

<sup>10</sup> Substituted by s 4 of the Indian I T (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952

<sup>11</sup> Substituted for "and of such incomes or classes of income and" by s 3 of the Indian I T (Amendment) Act, 1940 (40 of 1940), with effect from the 1st April 1939

<sup>12</sup> Substituted for "and, where two or more Appellate Assistant Commissioners have been appointed for the same area", *ibid*, with effect from the 1st April, 1939

<sup>13</sup> Substituted for "and of such incomes or classes of income and", *ibid*, with effect from the 1st April, 1939

<sup>14</sup> Substituted for "and, where two or more Inspecting Assistant Commissioners of Income tax or Income tax Officers have been appointed for the same area", *ibid*, with effect from the 1st April, 1939

<sup>15</sup> "With the previous approval of the Central Board of Revenue omitted by s 4 of the Indian I T (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952

direct that the powers conferred on the Income-tax Officer and the Appellate Assistant Commissioner by or under this Act shall, in respect of any specified case or class of cases, be exercised by the Inspecting Assistant Commissioner and the Commissioner, respectively, and, for the purposes of any case in respect of which such order applies, references in this Act or in any rules made hereunder to the Income-tax Officer and the Appellate Assistant Commissioner shall be deemed to be references to the Inspecting Assistant Commissioner and the Commissioner, respectively

<sup>16</sup>[(5A) Inspectors of Income-tax shall perform such functions in the execution of this Act as are assigned to them by the Income-tax Officer or other Income-tax authority under whom they are appointed to work, and shall be subordinate to such Officer or authority]

(6) The Central Board of Revenue may, by notification in the Official Gazette, empower Commissioners of Income-tax, Appellate or Inspecting Assistant Commissioners of Income-tax and Income-tax Officers to perform such functions in respect of such classes of persons or such classes of income <sup>17</sup>[or such area] as may be specified in the notification, and thereupon the functions so specified shall cease <sup>18</sup>\* \* \* to be performed in respect of the specified classes of persons or classes of income <sup>19</sup>[or area] by the other authorities appointed under sub sections (2) and (3)

<sup>20</sup>[(7) For the purposes of this Act,—

(i) Inspecting Assistant Commissioners shall be subordinate to the Director of Inspection and to the Commissioner of Income tax within whose jurisdiction they perform their functions,

(ii) Income tax Officers shall be subordinate to the Director of Inspection, the Commissioner of Income-tax and the Inspecting Assistant Commissioner of Income-tax within whose jurisdiction they perform their functions]

<sup>21</sup>[(7A) The Commissioner of Income-tax may transfer any case from one Income tax Officer subordinate to him to another, and the Central Board of Revenue may transfer any case from any one Income tax Officer to another. Such transfer may be made at any stage of the proceedings, and shall not render necessary the reissue of any notice already issued by the Income tax Officer from whom the case is transferred]

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<sup>23</sup>[(7B) The Director of Inspection, the Commissioner or the Inspecting Assistant Commissioner, as the case may be, may issue such instructions as he thinks fit for the guidance of any Income-tax Officer subordinate to him in the matter of any assessment, and for the purposes of making any inquiry under this Act (which he is hereby empowered to do), the Director of Inspection, the Commissioner and the Inspecting Assistant Commissioner

<sup>16</sup> Inserted, *id.* with effect from the 1st April, 1952

<sup>17</sup> Substituted for "and for such area" by s. 3 of the Indian I T (Amendment) Act, 1940 (10 of 1940) with effect from the 1st April, 1939

<sup>18</sup> "Within the specified area" omitted *id.* with effect from the 1st April, 1939

<sup>19</sup> Inserted, *id.* with effect from the 1st April, 1939

<sup>20</sup> Substituted by s. 3 of the Indian I T. (Amendment) Act, 1953 (25 of 1953) with effect from the 1st April 1952

<sup>21</sup> Inserted by s. 3 of the Indian I T. (Amendment) Act, 1940 (40 of 1940)

<sup>22</sup> The Exemption was inserted with full retrospective effect by s. 2 of the Indian Income-tax (Amendment) Act, 1950 (20 of 1950) and was continued by s. 3 of the Taxation Laws (Amendment) Act, 1960 (28 of 1960) with effect from the 1st April 1950

<sup>23</sup> Inserted by s. 4 of the Indian I T. (Amendment) Act, 1953 (25 of 1953) with effect from the 1st April 1952

shall have all the powers that an Income-tax Officer has under this Act in relation to the making of inquiries

(7C) Whenever in respect of any proceeding under this Act an Income-tax authority ceases to exercise jurisdiction and is succeeded by another who has and exercises jurisdiction, the Income tax authority so succeeding may continue the proceeding from the stage at which the proceeding was left by his predecessor

Provided that the assessee concerned may demand that before the proceeding is so continued the previous proceeding or any part thereof be re-opened or that before any order for assessment is passed against him he be re-heard

Provided further that in computing the period of limitation for the purposes of sub section (3) of section 34, the time taken in re-opening the whole or any part of the proceeding or in giving an opportunity to the assessee to be re-heard under the preceding proviso shall be excluded ]

(8) All officers and persons employed in the execution of this Act shall observe and follow the orders, instructions and directions of the Central Board of Revenue

Provided that no such orders, instructions or directions shall be given to as to interfere with the discretion of the Appellate Assistant Commissioner in the exercise of his appellate functions

<sup>25</sup>[*Explanation*—In sub sections (2), (5) and (7A), the word “case” in relation to any person whose name is specified in any order or direction issued in pursuance of any of the aforesaid sub sections means all proceedings under this Act in respect of any year which may be pending on the date of such order or direction or which may have been completed on or before such date, and includes also all proceedings under this Act which may be commenced after the date of such order or direction in respect of any year ]]

## 25[CHAPTER II-A, APPELLATE TRIBUNAL]

<sup>1</sup>5A The Appellate Tribunal—(1) The Central Government shall appoint an Appellate Tribunal consisting of <sup>2</sup>[as many persons as it thinks fit] to exercise the functions conferred on the Appellate Tribunal by this Act

(2) The Appellate Tribunal shall consist <sup>3</sup>\* \* \* of judicial members and accountant members as hereinafter defined

\* \* \* \* \*

(3) <sup>5</sup>[A judicial member shall be a person who has for at least ten years either held a civil judicial post or been in practice as an advocate of a

<sup>1</sup> The Explanation was inserted by s 3 of the Taxation Laws (Amendment) Act, 1960 (28 of 1960), and shall be deemed always to have been in the Act

<sup>2</sup> Inserted by s 4 of the Indian I T (Amendment) Act, 1940 (40 of 1940)

<sup>3</sup> Inserted by s 85 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>4</sup> Substituted for “not more than ten persons” by s 10 of the Taxation Laws (Extension to Merged States and Amendment) Act 1949 (67 of 1949)

<sup>5</sup> “Of an equal number” omitted, *ibid*

<sup>6</sup> The proviso was omitted by s 5 of the Indian I T (Amendment) Act, 1953 (25 of 1953) with effect from the 1st April, 1952

<sup>7</sup> Substituted *ibid* with effect from the 1st April, 1952

High Court, and an accountant member shall be a person who has for at least ten years been in the practice of accountancy as a chartered accountant under the Chartered Accountants Act, 1949 (XXXVIII of 1949), or as a registered accountant under any law formerly in force or partly as a registered accountant and partly as a chartered accountant ]

Provided that the Central Government may appoint as an accountant member of the Tribunal any person not possessing the qualifications required by this sub section, if it is satisfied that he has qualifications and has had adequate experience of a character which render him suitable for appointment to the Tribunal

(4) The Central Government shall <sup>6</sup>[ordinarily] appoint a judicial member of the Tribunal to be President thereof

(5) The powers and functions of the Appellate Tribunal may be exercised and discharged by Benches constituted from members of the Tribunal by the President of the Tribunal

<sup>7</sup>[(6) Save as hereinafter provided a Bench shall consist of one judicial member and one accountant member

Provided that the President or any other member of the Tribunal specially authorised in this behalf by the Central Government may, sitting singly, dispose of any case which has been allotted to the Bench of which he is a member and which pertains to an assessee whose total income as computed by the Income-tax Officer in the case does not exceed Rs 15,000

Provided further that the President may, for the disposal of any particular case, constitute a special Bench consisting either of two judicial members and one accountant member or of one judicial member and two accountant members ]

(7) If the members of a Bench differ in opinion on any point, the point shall be decided according to the opinion of the majority, if there is a majority, but if the members are equally divided, they shall state the point or points on which they differ, and the case shall be referred by the President of the Tribunal for hearing on such point or points by one or more of the other members of the Tribunal, and such point or points shall be decided according to the opinion of the majority of the members of the Tribunal who have heard the case, including those who first heard it

(8) Subject to the provisions of this Act, the Appellate Tribunal shall have power to regulate its own procedure, and the procedure of Benches of the Tribunal in all matters arising out of the discharge of its functions, including the <sup>8</sup>[places] at which the Benches shall hold their sittings ]

### CHAPTER III

#### TAXABLE INCOME

**6 Heads of income chargeable to income-tax**—Save as otherwise provided by this Act, the following heads of income, profits and gains, shall be chargeable to income tax in the manner hereinafter appearing, namely —

##### (1) Salaries

<sup>6</sup> Inserted, *ibid*, with effect from the 1st April, 1952

<sup>7</sup> Substituted by s 10 of the Taxation Laws (Extension to Merged States and Amendment) Act, 1949 (67 of 1949)

<sup>8</sup> Substituted for " place " by s 4 of the Indian I T (Amendment) Act, 1940 (40 of 1940)



- (ii) Interest on securities
- 9[(iii) Income from property
- (iv) Profits and gains of business, profession or vocation
- (v) Income from other sources ]
- 10[(vi) Capital gains ]

11[7 Salaries —(1) The tax shall be payable by an assessee under the head "Salaries" in respect of any salary or wages, any annuity, pension or gratuity, and any fees, commissions, perquisites or profits in lieu of, or in addition to, any salary or wages, which are allowed to him by or are due to him, whether paid or not, from, or are paid by or on behalf of, the Government, a local authority, a company or any other public body or association, or any private employer, and for the purposes of this sub-section advances by way of loan or otherwise of income chargeable under this head shall be deemed to be salary due on the date when the advance is received

Provided that the tax shall not be payable in respect of any sum deducted from the salary payable by or on behalf of the Government to any individual, being a sum deducted in accordance with the conditions of his service, for the purpose of securing to him a deferred annuity or making provision for his wife or children provided that the sum so deducted shall not exceed 12[one-fifth] of the salary

Provided further that where tax is deductible at the source under section 18, the assessee shall not be called upon to pay the tax himself unless he has received the salary without such deduction

4A)

*Explanation 1* —For the purposes of this section, "perquisite" includes—

- (i) the value of rent-free accommodation or the value of any concession in the matter of rent respecting any accommodation provided to the assessee by his employer,
- (ii) the value of any benefit or amenity granted or provided by a company free of cost or at concessional rate to an employee who is a director thereof or who is substantially interested in the company within the meaning of sub-clause (iii) of clause (6C) of section 2,
- (iii) the value of any benefit or amenity granted or provided to an assessee (not being an assessee to whom the provisions of clause (ii) apply) by his employer free of cost or at concessional rate in any case where the income of the assessee under the head "Salaries" exclusive of the value of all benefits or amenities not provided for by way of monetary payment exceeds eighteen thousand rupees,
- (iv) any sum paid by the employer in respect of any obligation which but for such payment would have been payable by the assessee, and
- (v) any sum payable by the employer, whether directly or through a fund to which the provisions of Chapters IX-A and IX-B do not

<sup>9</sup> Substituted for the original cls (iii) (iv) (v) and (vi) by s 7 of the Indian IT (Amendment) Act, 1939 (7 of 1939)

<sup>10</sup> Inserted by s 5 of the I T and E P T (Amendment) Act 1947 (22 of 1947)

<sup>11</sup> Substituted by s 5 of the Finance Act, 1955. The amendment shall, for the purposes of making any deduction of income-tax under sub sec (2) or (2B) of s 18 of the Income tax Act have effect on and from the 1st April, 1955 and shall, for other purposes, have effect on and from the 1st April 1956

<sup>12</sup> Substituted for "one sixth" by s 5 of the Finance Act 1956 with effect from the 1st April 1956

apply, to effect an assurance on the life of the assessee or in respect of a contract for an annuity on the life of the assessee

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*Explanation 2*—For the purposes of this section, “profits in lieu of salary” includes,—

- (i) the amount of any compensation due to or received by an assessee from his employer or former employer at or in connection with, the termination of his employment, whether solely as compensation for loss of employment or for any other consideration,
- (ii) any payment due to or received by an assessee from an employer or former employer or from a provident or other fund, to the extent to which it does not consist of contributions by the assessee or interest on such contributions

Provided that nothing herein contained shall render liable to income-tax any payment of death *cum*-retirement gratuity received after the 16th day of April, 1950, under the Revised Pension Rules of the Central Government or under any similar scheme of a State Government, <sup>13</sup>[a local authority or a corporation established by a Central, State or Provincial Act] <sup>14</sup>[or any payment of retiring gratuity received after the 1st day of June, 1953, under the New Pension Code applicable to the members of the Defence Services] or any payment from a provident fund to which the Provident Funds Act, 1925 (XIX of 1925), applies, or any payment from a recognised provident fund within the meaning of Chapter IX-A if such payment is exempted from payment of income tax under the provisions of Chapter IX-A, or any payment from an approved superannuation fund within the meaning of Chapter IX-B made on the death of a beneficiary or in lieu of or in commutation of an annuity, or by way of refund of contributions on the death of a beneficiary or on his leaving the employment in connection with which the fund is established

(2) The income chargeable under this section shall be computed after making the following deductions, namely —

- (i) any amount not exceeding five hundred rupees, expended by the assessee on the purchase of books and other publications necessary for the purpose of his duties,
- <sup>15</sup>[(ii) in respect of any allowance in the nature of an entertainment allowance specifically granted to the assessee by his employer—
  - (a) in the case of an assessee who is in receipt of a salary from the Government, a sum equal to one-fifth of his salary (exclusive of any special allowance, benefit or other perquisites) or five thousand rupees, whichever is less, and
  - (b) in the case of any other assessee, a sum equal to one-fifth of the salary (exclusive of any special allowance, benefit or other perquisites) or seven thousand five hundred rupees, whichever is less, except in any case where the assessee was not in receipt of such entertainment allowance regularly from his present employer before the year beginning on the first day of April, 1955,]

<sup>13</sup> These words were inserted by s 5 of the Finance Act, 1958, and shall be deemed always to have been in the Act

<sup>14</sup> These words were inserted by s 4 of the Finance Act, 1961, and shall be deemed always to have been in the Act

<sup>15</sup> Substituted by s 5 of the Finance Act, 1958, with effect from the 1st April, 1958

<sup>16</sup>[(ii-a) in respect of any conveyance owned by the assessee and used by him for the purposes of his employment, such sum as the Income-tax Officer may estimate in respect of such use as representing the expenditure incurred by the assessee in its maintenance and as representing its normal wear and tear

Provided that this clause shall not apply in any case where the assessee is in receipt of a conveyance allowance, whether as such or as part of his salary,]

(iii) any amount actually expended by the assessee, which he, by the conditions of his service, is required to spend out of his remuneration (exclusive of the allowance referred to in sub-clause (ii)), wholly, necessarily and exclusively in the performance of his duties ]

**8 Interest on securities**—The tax shall be payable by an assessee under the head "Interest on securities" in respect of the interest receivable by him on any security of the <sup>17</sup>[Central Government] or of a <sup>18</sup>[State] Government, or on debentures or other securities for money issued by or on behalf of a local authority or a company

<sup>19</sup>[Provided that no income-tax shall be payable under this section by the assessee <sup>20</sup>[in respect of any reasonable sum expended by him for the purpose of realising such interest]] <sup>21</sup>[or in respect of any interest payable on money borrowed for the purpose of investment in the securities by the assessee except interest chargeable under this Act which is payable with out <sup>22</sup>[the taxable territories], not being interest on a loan issued for public subscription before the 1st day of April, 1938, unless in respect of interest which is so chargeable tax has been paid or deducted under section 18, or unless there is a person in <sup>22</sup>[the taxable territories] who may be appointed an agent under section 43 in respect of such interest]

Provided <sup>19</sup>[further] that no income-tax shall be payable on the interest receivable on any security of the <sup>17</sup>[Central Government] issued or declared to be income tax free

Provided further that the income tax payable on the interest receivable on any security of a <sup>18</sup>[State] Government issued income-tax free shall be payable by the <sup>18</sup>[State] Government

<sup>23</sup>[*Explanation*—In the case of a banking company,—

(a) the amount which bears to the aggregate of its expenses as are admissible under sub section (2) of section 10, other than under clauses (iii), (vi), (vi a), (vi b), (vii), (viii), (xi), (xi), (xiii) and (xiv) thereof, the same proportion as the gross receipts from interest on securities (inclusive of tax deducted at source) chargeable to tax under this section bears to the gross receipts from all sources which are included in the profit and loss account of the company, shall

<sup>16</sup> Inserted by s 5 of the Finance Act 1956, with effect from the 1st April, 1956

<sup>17</sup> Substituted for "Government of India" by the Government of India (Adaptation of Indian Laws) Order, 1937

<sup>18</sup> Substituted for "Provincial" by the Adaptation of Laws Order, 1950

<sup>19</sup> Inserted by s 3 of the Indian I T (Second Amendment) Act, 1933 (18 of 1933)

<sup>20</sup> Substituted for "in respect of any reasonable sum deducted by a banker from such interest by way of commission or paid to any other person by way of remuneration for realizing such interest on behalf of the assessee" by s 6 of the Finance Act, 1956, with effect from the 1st April, 1956

<sup>21</sup> Inserted by s 9 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>22</sup> Substituted for "British India" by the Adaptation of Laws Order 1950

<sup>23</sup> Inserted by s 6 of the Finance Act 1956 with effect from the 1st April 1956

be deemed to be the sum reasonably expended by it for the purposes of realising such interest, and the amount for which allowance is admissible under sub-section (2) of section 10 shall be reduced correspondingly, and

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- (b) money borrowed shall include moneys received by way of deposits, and that amount which bears to the amount of interest payable on moneys borrowed the same proportion as the gross receipts from interest on securities (inclusive of tax deducted at source) chargeable to tax under this section bears to the gross receipts from all sources which are included in the profit and loss account of the company, shall be deemed to be interest payable on money borrowed for the purpose of investment in the securities by the assessee, and the amount of such interest for which allowance is due under sub-section (2) of section 10 shall be reduced correspondingly ]

**9 Property**—(1) The tax shall be payable by an assessee <sup>24</sup>[under the head “Income from property”] in respect of the *bona fide* annual value of property consisting of any buildings or lands appurtenant thereto of which he is the owner, other than such portions of such property as he may occupy for the purposes of <sup>25</sup>[any business, profession or vocation carried on by him the profits of which are assessable to tax], subject to the following allowances, namely —

- (i) where the property is in the occupation of the owner, or where it is let to a tenant and the owner has undertaken to bear the cost of repairs, a sum equal to one-sixth of such value,
- (ii) where the property is in the occupation of a tenant who has undertaken to bear the cost of repairs, the difference between such value and the rent paid by the tenant up to but not exceeding one-sixth of such value

<sup>1</sup>[Provided that for the purposes of making any assessment for the year ending on the 31st day of March, 1952, in respect of the property situated in an area affected by the Assam earthquake of 1950, the allowance on account of repairs referred to in clauses (i) and (ii) shall be increased up to a maximum of one-half of the annual value thereof or the amount of expenditure proved to have been actually incurred for repairs, whichever is the less,]

- (iii) the amount of any annual premium paid to insure the property against risk of damage or destruction,
- <sup>2</sup>[(iv) where the property is subject to a mortgage or other capital charge, the amount of any interest on such mortgage or charge, where the property is subject to an annual charge not being a capital charge, the amount of such charge, where the property is

<sup>24</sup> Substituted for “under the head ‘Property’” by s 10 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>25</sup> Substituted for “his business”, *ibid*

<sup>1</sup> Inserted by s 7 of the Indian I T (Amendment) Act, 1953 (25 of 1953) The amendment shall be deemed to be operative for any assessment for the year ending on the 31st day of March, 1952, whether made before or after the commencement of the Indian I T (Amendment) Act, 1953, and where any such assessment has been made before such commencement the Income tax Officer concerned shall revise it, wherever necessary, to give effect to this amendment

<sup>2</sup> Substituted by s 10 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

subject to a ground rent, the amount of such ground rent, and where the property has been acquired, constructed, repaired, renewed or reconstructed with borrowed capital, the amount of any interest payable on such capital

Provided that no allowance shall be made in respect of any interest or annual charge payable without <sup>3</sup>[the taxable territories] and chargeable under this Act, not being interest on a loan issued for public subscription before the 1st day of April, 1938, except interest or a charge on which tax has been paid or from which tax has been deducted under section 18 or in respect of which there is an agent for the payee in <sup>3</sup>[the taxable territories] who may be assessed under section 43,]

(v) any sums paid on account of land revenue in respect of the property,

(vi) in respect of collection charges, a sum not exceeding the prescribed maximum,

<sup>4</sup>[(vii) in respect of vacancies, that part of <sup>5</sup>[the annual value] which is proportional to the period during which the property is wholly unoccupied or, where the property is let out in parts, that portion of <sup>5</sup>[the annual value] appropriate to any vacant part, which is proportional to the period during which such part is wholly unoccupied ]

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<sup>7</sup>[Explanation —For the purposes of clause (v) of this sub section, the expression “ annual charge ” does not include any tax in respect of property or income from property levied by a local authority or a State Government or the Central Government ]

<sup>8</sup>[(2) For the purposes of this section, the annual value of any property shall be deemed to be the sum for which the property might reasonably be expected to let from year to year

<sup>9</sup>[Provided that, where the property is in the occupation of the owner for the purposes of his own residence, the annual value thereof shall first be determined in the same manner as if the property had been let to a tenant and the amount so determined shall be reduced by one half of it or eighteen hundred rupees, whichever is less, so however that where the sum so reduced exceeds ten per cent of the total income of the owner, the annual value of the property shall be deemed to be ten per cent of such total income ]

<sup>10</sup>[Provided further that where the property referred to in the preceding proviso consists of one residential house only and it cannot actually

<sup>2</sup> Substituted for “ British India ” by the Adaptation of Laws Order, 1950

<sup>3</sup> Substituted by s 10 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>4</sup> Substituted for “ the net annual value after deducting the foregoing allowances ” by s 5 of the Indian I T (Amendment) Act, 1940 (40 of 1940)

<sup>6</sup> The proviso was omitted by s 10 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>7</sup> The Explanation was inserted by s 2 of the Indian I T (Amendment) Act, 1950 (71 of 1950), and shall be deemed always to have been in the Act, subject to savings regarding certain cases decided by the Supreme Court

<sup>8</sup> Substituted with effect from the 1st April 1951, by s 5, *ibid* The amendment applies to all assessments for the year ending 31st March, 1952, and for any subsequent year

<sup>9</sup> Substituted by s 7 of the Indian I T (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April 1952 and further substituted by s 7 of the Finance Act, 1955, with effect from the 1st April 1955

<sup>10</sup> Inserted by s 3 of the Finance Act, 1953 (14 of 1953), with effect from the 1st April, 1953

be occupied by the owner by reason of the fact that owing to his employment, business, profession or vocation carried on at any other place he has to reside at that other place in a building not belonging to him and the residential house is not actually let and no other benefit therefrom is derived by the owner, the income of such property under this section shall, if the property was not occupied during the whole of the previous year be taken to be nil, and if it was occupied for a part of the previous year be computed proportionately, so however that the income in respect of such property shall in no case be a loss ]

Provided further that where the property is in the occupation of a tenant and the taxes levied by any local authority in respect of the property are, under the law authorising such levy, payable wholly by the owner or partly by the owner and partly by the tenant—

<sup>11</sup>[(a) in the case of a property the construction of which was completed before the 1st day of April, 1950, the total amount of such taxes, and in the case of any other property, one-half of the total amount of such taxes, shall, notwithstanding anything contained in such law, be deemed to be the tenant's liability for such taxes, and]

(b) in determining the annual value of the property with reference to the rent payable by the tenant, a deduction shall be made equal to the part, if any, of the tenant's liability which is borne by the owner ]

<sup>12</sup>[Provided further that in respect of a building the erection of which is begun and completed after the 1st day of April, 1961, the annual value for a period of three years from the date of such completion shall be reduced by a sum equal to the aggregate of—

(a) in respect of any residential unit (comprised in the building) whose annual value does not exceed six hundred rupees, the amount thereof, and

(b) in respect of any residential unit (comprised in the building) whose annual value exceeds six hundred rupees, an amount of six hundred rupees,

so, however, that the income in respect of any residential unit shall in no case be a loss

*Explanation* —Where a residential unit is in the occupation of the owner for the purposes of his own residence, and the annual value thereof is computed in accordance with the first proviso, such computation shall be made as if the fourth proviso had been omitted ]

<sup>13</sup>[(3) Where property is owned by two or more persons and their respective shares are definite and ascertainable, such persons shall not in respect of such property be assessed as an association of persons, but the share of each such person in the income from the property as computed in accordance with this section shall be included in his total income ]

<sup>14</sup>[(4) For the purposes of this section—

(a) the holder of an impartible estate shall be deemed to be the individual owner of all the properties comprised in the estate,

<sup>11</sup> Substituted by s 4 of the Finance Act, 1960, with effect from the 1st April, 1960

<sup>12</sup> Inserted by s 5 of the Finance Act, 1961, with effect from the 1st April, 1961

<sup>13</sup> Inserted by s 10 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>14</sup> Inserted by s 4 of the I T and B P T (Amendment) Act, 1948 (48 of 1948), with effect from the 30th March, 1948, and substituted by s 7 of the Finance Act, 1955, with effect from the 1st April, 1955

(b) a member of a co operative society to whom a building built by the society is allotted or leased under a house-building scheme of the society shall be deemed to be the owner of that building,

<sup>15</sup>[(c) taxes levied by a local authority in respect of any property shall be deemed to include service taxes levied by the local authority in respect of the property ]]

**10 Business**—(1) The tax shall be payable by an assessee under the head <sup>16</sup>[" Profits and gains of business, profession or vocation "] in respect of the profits or gains of any <sup>16</sup>[business, profession or vocation] carried on by him

(2) Such profits or gains shall be computed after making the following allowances, namely —

- (i) any rent paid for the premises in which such <sup>16</sup>[business, profession or vocation] is carried on, provided that when any substantial part of the premises is used as a dwelling-house by the assessee, the allowance under this clause shall be such sum as the Income tax Officer may determine having regard to the <sup>17</sup>[proportional annual value of the part] so used,
- (ii) in respect of repairs, where the assessee is the tenant only of the premises, and has undertaken to bear the cost of such repairs, the amount paid on account thereof, provided that, if any substantial part of the premises is used by the assessee as a dwelling house, a proportional part only of such amount shall be allowed,
- (iii) in respect of capital borrowed for the purposes of the <sup>18</sup>[business, profession or vocation], <sup>19</sup>\* \* \* the amount of the interest paid

<sup>20</sup>[Provided that no allowance shall be made under this clause in any case for any interest chargeable under this Act which is payable without <sup>21</sup>[the taxable territories], not being interest on a loan issued for public subscription before the 1st day of April, 1938, except interest on which tax has been paid or from which tax has been deducted under section 18 or in respect of which there is an agent in <sup>21</sup>[the taxable territories] who may be assessed under section 43 or, in the case of a firm, for any interest paid to a partner of the firm,]

*Explanation*—Recurring subscriptions paid periodically by shareholders or subscribers in such Mutual Benefit Societies as may be prescribed, shall be deemed to be capital borrowed within the meaning of this clause,

- (iv) in respect of insurance against risk of damage or destruction of buildings, machinery, plant, furniture, stocks or stores

<sup>15</sup> The clause was inserted by s 6 of the Finance Act 1938, and shall be deemed always to have been in the Act

<sup>16</sup> Substituted for " business " by s 11 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>17</sup> Substituted for " proportional part ", *ibid*

<sup>18</sup> Substituted for " business ", *ibid*

<sup>19</sup> " Where the payment of interest thereon is not in any way dependent on the earning of profits " omitted, *ibid*

<sup>20</sup> Inserted *ibid*

<sup>21</sup> Substituted for " British India " by the Adaptation of Laws Order, 1950

used for the purposes of the <sup>18</sup>[business, profession or vocation], the amount of any premium paid,

- (v) in respect of current repairs to such buildings, machinery, plant or furniture, the amount paid on account thereof, S
- (vi) in respect of depreciation of such buildings, machinery, plant or furniture being the property of the assessee, a sum equivalent, <sup>22</sup>[where the assets are ships other than ships ordinarily plying on inland waters,] to such percentage on the original cost thereof to the assessee as may in any case or class of cases be prescribed <sup>22</sup>[and in any other case, to such percentage on the written down value thereof as may in any case or class of cases be prescribed], (R.)

<sup>23</sup>[and where the buildings have been newly erected, or the machinery or plant being new, <sup>24</sup>[not being machinery or plant entitled to the development rebate under clause (vi-b),] has been installed, after the 31st day of March, 1945, <sup>25</sup>[and before the 1st day of April, 1956,] a further sum (which shall however not be deductible in determining the written down value for the purposes of this clause) in respect of the year of erection or installation equivalent,—

- (a) in the case of buildings the erection of which is begun and completed between the 1st day of April, 1946, and the 31st day of March, <sup>1</sup>[1956] (both dates inclusive), to fifteen per cent of the cost thereof to the assessee,
- (b) in the case of other buildings, to ten per cent of the cost thereof to the assessee,
- (c) in the case of machinery or plant, to twenty per cent of the cost thereof to the assessee,]

<sup>2</sup>[and where the buildings have been newly erected after the 31st day of March, 1961, such buildings being used solely for the purpose of residence of persons employed in the business and drawing remuneration not exceeding two hundred rupees per mensem or such buildings being used solely or mainly for the welfare of such persons as hospitals, creches, schools, canteens, libraries, recreational centres, shelters, rest rooms and lunch rooms, a sum (which shall not be deductible in determining the written down value for the purposes of this clause) equal to twenty per cent of the actual cost of the building to the assessee in respect of the previous year of erection of the building ]

Provided that—

- (a) the prescribed particulars have been duly furnished,

<sup>22</sup> Inserted by s 11 of the Indian I T (Amendment) Act, 1939 (7 of 1939) as amended by the I T Law Amendment Act, 1940 (12 of 1940)

<sup>23</sup> Inserted by s 3 of the Indian I T (Amendment) Act, 1946 (8 of 1946)

<sup>24</sup> Inserted by s 8 of the Finance Act, 1955, with effect from the 1st April, 1955

<sup>25</sup> Inserted by s 7 of the Finance Act, 1956, with effect from the 1st April, 1956

<sup>1</sup> "1952" was substituted for "1950" by s 3 of the Finance Act 1950 (25 of 1950), with effect from the 1st April, 1950, "1954" was substituted for "1952" by s 8 of the Indian I T (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952, and "1956" was substituted for "1954" by s 3 of the Finance Act, 1954 (17 of 1954), with effect from the 1st April, 1954

<sup>2</sup> Inserted by s 6 of the Finance Act, 1961, with effect from the 1st April, 1961



(b) where, <sup>3</sup>[in the assessment of the assessee or if the assessee is a registered firm, in the assessment of its partners,] full effect cannot be given to any such allowance in any year <sup>4</sup>[not being a year which ended prior to the 1st day of April, 1939,] owing to there being no profits or gains chargeable for that year, or owing to the profits or gains chargeable being less than the allowance, <sup>5</sup>[then, subject to the provisions of <sup>6</sup>[clause (b)] of the proviso to sub-section (2) of section 24], the allowance or part of the allowance to which effect has not been given, as the case may be, shall be added to the amount of the allowance for depreciation for the following year and deemed to be part of that allowance, or if there is no such allowance for that year, be deemed to be the allowance for that year, and so on for succeeding years, and

(c) <sup>7</sup>[the aggregate of all allowances in respect of depreciation made under this clause and clause (vi a) or under any Act repealed hereby,] or under the Indian Income tax Act, 1886 (II of 1886), shall, in no case, exceed the original cost to the assessee of the buildings, machinery, plant or furniture, as the case may be,

<sup>8</sup>[(vi a) in respect of depreciation of buildings newly erected, or of machinery or plant being new which has been installed, after the 31st day of March, 1948, a further sum (which shall be deductible in determining the written down value) equal to the amount admissible under clause (vi) (exclusive of the extra allowance for double or multiple shift working of the machinery or plant and the initial depreciation allowance admissible under that clause for the first year of erection of the building or the installation of the machinery or plant) <sup>9</sup>[in not more than five successive assessments for the financial years next following the previous year in which such buildings are erected and such machinery and plant installed and falling within the period commencing on the 1st day of April, 1949, and ending on the 31st day of March, 1959],]

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<sup>11</sup>[(vi b) in respect of a new ship acquired or new machinery or plant installed after the 31st day of March, 1954, which is wholly

<sup>3</sup> Inserted by s 8 of the Indian I T (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952

<sup>4</sup> Inserted by s 11 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>5</sup> Inserted by s 6 of the Indian I T (Amendment) Act, 1941 (23 of 1941) Effect shall not be given to this amendment in the making of any assessment for any year before the year ending 31st March 1943

<sup>6</sup> Substituted for "clause (a)" by s 4 of the Repealing and Amending Act, 1947 (2 of 1948)

<sup>7</sup> Substituted for "the aggregate of all such allowances made under this Act or any Act repealed hereby" by s 8 of the Finance Act, 1955, with effect from the 1st April, 1955

<sup>8</sup> Inserted by s 11 of the Taxation Laws (Extension to Merged States and Amendment) Act 1949 (67 of 1949)

<sup>9</sup> Substituted for "in the assessments for each of the five years commencing on the 1st day of April 1949, and ending with the 31st day of March, 1954", by s 8 of the Indian I T (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April 1952

<sup>10</sup> The proviso was omitted by s 8 of the Finance Act, 1955, with effect from the 1st April, 1955

<sup>11</sup> Inserted *ibid* with effect from the 1st April, 1955 and substituted by s 7 of the Finance Act 1958 with effect from the 1st April, 1958

used for the purposes of the business carried on by the assessee, Div.  
a sum by way of development rebate in respect of the year S  
of acquisition of the ship or of the installation of the machinery or plant, equivalent to,—

- <sup>12</sup>[(1) in the case of a ship acquired after the 31st day of December, 1957, forty per cent and in the case of a ship acquired before the 1st day of January, 1958, twenty-five per cent of the actual cost of the ship to the assessee, and  
(u) in the case of machinery or plant installed before the 1st day of April, 1961, twenty-five per cent and in the case of machinery or plant installed after the 31st day of March, 1961, twenty per cent of the actual cost of the machinery or plant to the assessee,]

*Explanation 1*—In the case of a ship acquired or machinery or plant installed after the 31st day of December, 1957, where the total income of the assessee for the year of acquisition or installation (the total income for this purpose being computed without making any allowance under this clause) is nil or is less than the full amount of the development rebate calculated at the rate applicable thereto under this clause,—

- (1) the sum to be allowed by way of development rebate for that year under this clause shall be only such amount as is sufficient to reduce the said total income to nil, and  
(u) the amount of the development rebate, to the extent to which it has not been allowed as aforesaid, shall be carried forward to the following year, and the development rebate to be allowed for the following year shall be such amount as is sufficient to reduce the total income of the assessee for that year, computed in the manner aforesaid, to nil, and the balance of the development rebate, if any, still outstanding shall be carried forward to the following year and so on, so however that no portion of the development rebate shall be carried forward for more than eight years,

*Explanation 2*—Where in any year development rebate is to be allowed in accordance with the provisions of *Explanation 1* in respect of ships acquired or machinery or plant installed in more than one year, and the total income of the assessee for that year (the total income for this purpose being computed without making any allowance under this clause) is less than the aggregate of the amounts due to be allowed in respect of the assets aforesaid for that year, the following procedure shall be followed, namely —

- (1) the allowance under paragraph (u) of *Explanation 1* shall be made before any allowance under paragraph (1) of that *Explanation* is made, and  
(u) where an allowance has to be made under paragraph (u) of *Explanation 1* in respect of amounts carried forward from more than one year, the amount carried

<sup>12</sup> Substituted by s 6 of the Finance Act, 1961 with effect from the 1st April 1961

forward from an earlier year shall be allowed before any amount carried forward from a later year

Provided that no allowance under this clause shall be made unless—

- (a) The particulars prescribed for the purpose of clause (vi) have been furnished by the assessee in respect of the ship or machinery or plant, and
- (b) except where the assessee is a company being a licensee within the meaning of the Electricity (Supply) Act, 1948 (LIV of 1948), or where the ship has been acquired or the machinery or plant has been installed before the 1st day of January, 1958, an amount equal to seventy-five per cent of the development rebate to be actually allowed is debited to the profit and loss account of the relevant previous year and credited to a reserve account to be utilised by him during a period of ten years next following for the purposes of the business of the undertaking, except—

(i) for distribution by way of dividends or profits, or

(ii) for remittance outside India as profits or for the creation of any asset outside India,

and if any such ship, machinery or plant is sold or otherwise transferred by the assessee to any person other than the Government<sup>13</sup>[or for any consideration not connected with any amalgamation or succession referred to in clause (vi-c)] at any time before the expiry of ten years from the end of the year in which it was acquired or installed, any allowance made under this clause shall be deemed to have been wrongly allowed for the purposes of this Act ]

<sup>11</sup>[Provided further that no allowance under this clause shall be made in respect of any machinery or plant which consists of office appliances or road transport vehicles.]

- <sup>13</sup>[(vi c) (i) where in a scheme of amalgamation, a company (hereinafter in this sub clause referred to as the predecessor) sells or otherwise transfers to the company formed in pursuance of the predecessor's amalgamation with that company (hereinafter in this sub clause referred to as the successor) any ship, machinery or plant in respect of which development rebate has been allowed to the predecessor under clause (vi b),—

- (i) the successor shall continue to fulfil the conditions mentioned in the first proviso to clause (vi-b) in respect of the reserve created by the predecessor and in respect of the period within which such ship, machinery or plant shall not be sold or otherwise transferred and in default of any of these conditions, the provisions of sub-section (11)

<sup>13</sup> Inserted by s 6 of the Finance Act 1961 with effect from the 1st April 1961

<sup>14</sup> Inserted by s 4 of the Taxation Laws (Amendment) Act, 1960 (28 of 1960) with effect from the 1st April, 1960

of section 35 shall apply to the successor as it would **Dis** have applied to the predecessor had it committed the **S 11** default,

- (2) the balance of development rebate, if any, still outstanding to the predecessor in respect of such ship, machinery or plant shall be allowed to the successor in accordance with *Explanations 1* and *2* of clause (vi b), so, however, that the total period for which the balance of development rebate shall be carried forward in the assessments of the predecessor and the successor shall not exceed the period of eight years specified in *Explanation 1* to clause (vi b) and the successor shall be treated as the assessee in respect of such ship, machinery or plant for the purposes of clause (vi b) and this sub-clause,

*Explanation*—For the purposes of this sub clause, “amalgamation” means the merger of two companies (each of which is hereinafter in this *Explanation* referred to as the amalgamating company) to form one company (hereinafter in this *Explanation* referred to as the amalgamated company) in such manner that—

- (a) all the property of the amalgamating companies immediately before the amalgamation becomes the property of the amalgamated company by virtue of the amalgamation,
- (b) all the liabilities of the amalgamating companies immediately before the amalgamation become the liabilities of the amalgamated company by virtue of the amalgamation, and
- (c) all the shareholders of the amalgamating companies immediately before the amalgamation become shareholders of the amalgamated company by virtue of the amalgamation,

otherwise than as a result of the acquisition of property of one company by another company pursuant to the purchase of such property by the other company or as a result of the distribution of such property to the other company after the winding up of the company,

(u) where a firm is succeeded to by a private company, as defined in the Companies Act, 1956 (I of 1956), in the business carried on by it as a result of which the firm sells or otherwise transfers to the private company any ship, machinery or plant, the provisions of sub clause (i) of this clause shall, so far as may be, apply to the firm and the company,

*Explanation*—The provisions of this sub clause shall apply only where—

- (a) all the property of the firm immediately before the succession becomes the property of the company,
- (b) all the liabilities of the firm immediately before the succession become the liabilities of the company, and

(c) all the partners of the firm immediately before the succession become shareholders of the company.]

<sup>15</sup>[(iii)] in respect of any such building, machinery or plant which has been sold or discarded or demolished or destroyed, the amount by which the written down value thereof exceeds the amount for which the building, machinery or plant, as the case may be, is actually sold or its scrap value

Provided that such amount is actually written off in the books of the assessee

Provided further that where the amount for which any such building, machinery or plant is sold, <sup>16</sup>[whether during the continuance of the business or after the cessation thereof], exceeds the written down value, so much of the excess as does not exceed the difference between the original cost and the written down value shall be deemed to be profits of the previous year in which the sale took place

Provided further that where any insurance, salvage or compensation moneys are received in respect of any such building, machinery or plant which has been discarded or demolished or destroyed, and the amount of such moneys does not exceed the written down value, the amount allowable under this clause shall be the amount, if any, by which the difference between the written down value and the scrap value exceeds the amount of such moneys

Provided further that where any insurance, salvage or compensation moneys are received in respect of any such building, machinery or plant as aforesaid, and the amount of such moneys exceeds the difference between the written down value and the scrap value no amount shall be allowable under this clause and so much of the excess as does not exceed the difference between the original cost and the written down value less the scrap value shall be deemed to be profits of the previous year in which such moneys were received

Provided further that for the purposes of this clause, the original cost of a building, the written down value of which is determined in accordance with the first proviso to sub section (5), shall be deemed to be the written down value so determined as at the date of its being brought into use for the purposes of the business, profession or vocation,]

<sup>17</sup>[(viii)] in respect of animals which have been used for the purposes of the <sup>18</sup>[business, profession or vocation] otherwise than as stock-in-trade and have died or become permanently useless for such purposes, the difference between the original cost to

<sup>15</sup> Substituted by s 11 of the Indian I T (Amendment) Act, 1939 (7 of 1939), and further substituted by s 3 of the Indian I T (Amendment) Act, 1946 (8 of 1946)

<sup>16</sup> Inserted by s 11 of the Taxation Laws (Extension to Merged States and Amendment) Act, 1949 (67 of 1949)

<sup>17</sup> Originally inserted as cl (vii a) by s 2 of the Indian I T (Amendment) Act, 1928 (3 of 1928)

<sup>18</sup> The original cls (iii a), (viii) and (vii a) were renumbered "(iii)" "(ix)" and "(x)" respectively by s 11 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>19</sup> Substituted for 'business', *ibid*

the assessee of the animals and the amount, if any, realised in respect of the carcasses or animals,] Div S 16

<sup>18</sup>[(ix)] any sums paid on account of land-revenue, local rates or municipal taxes in respect of such part of the premises as is used for the purposes of the <sup>19</sup>[business, profession or vocation],

<sup>20</sup>[<sup>18</sup>(x)] any sum paid to an employee as bonus or commission for services rendered, where such sum would not have been payable to him as profits or dividend if it had not been paid as bonus or commission

Provided that the amount of the bonus or commission is of a reasonable amount with reference to—

- (a) the pay of the employee and the conditions of his service,
- (b) the profits of the <sup>21</sup>[business, profession or vocation] for the year in question, and
- (c) the general practice in similar <sup>21</sup>[businesses, professions or vocations],]

<sup>22</sup>[(xi)] when the assessee's accounts in respect of any part of his business, profession or vocation are not kept on the cash basis, such sum, in respect of bad and doubtful debts, due to the assessee in respect of that part of his business, profession or vocation, and in the case of an assessee carrying on a banking or money-lending business, such sum in respect of loans made in the ordinary course of such business as the Income-tax Officer may estimate to be irrecoverable but not exceeding the amount actually written off as irrecoverable in the books of the assessee

Provided that if the amount ultimately recovered on any such debt or loan is greater than the difference between the whole debt or loan and the amount so allowed, the excess shall be deemed to be a profit of the year in which it is recovered, and if less, the deficiency shall be deemed to be a business expense of that year,]

<sup>23</sup>[(xii)] any expenditure (not being in the nature of capital expenditure) laid out or expended on scientific research related to the business,

<sup>24</sup>[(xiii)] any sum paid to a scientific research association having as its object the undertaking of scientific research or to a university, college or other institution to be used for scientific research or to a university, college or other institution to be used for research in social science or statistical research related to the class of business carried on

Provided that such association, university, college or institution is for the time being approved for the purposes of this clause by the prescribed authority,] (R. 47)

<sup>20</sup> Originally inserted as cl (iii a) by s 2 of the Indian I T (Third Amendment) Act, 1930 (23 of 1930)

<sup>21</sup> Substituted for "business" by s 11 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>22</sup> Inserted, *ibid*

<sup>23</sup> CIs (xi), (xii) and (xiv) were inserted by s 3 of the Indian I T (Amendment) Act, 1946 (8 of 1946)

<sup>24</sup> Substituted by s 5 of the Finance Act, 1960, with effect from the 1st April, 1960

- (xiv) in respect of any expenditure of a capital nature on scientific research related to the business, an allowance for each of the five consecutive previous years beginning with the year in which the expenditure was incurred, or where the expenditure was incurred prior to the commencement of the business, for each of the five consecutive previous years beginning with the year in which the business was commenced, equal to one fifth of such expenditure

Provided that no allowance shall be made for any expenditure incurred more than three years before the commencement of the business

Provided further that—

- (a) where an asset representing scientific research expenditure of a capital nature ceases to be used for scientific research related to such business—
- (1) no allowance shall be made in respect of any previous year after the previous year in which the cessation takes place, and
  - (ii) if the aggregate of the amounts allowed under this clause added to the value of the asset immediately before the cessation is less than the said expenditure, there shall also be allowed in respect of the previous year in which the cessation takes place an additional deduction equal to the difference,
- (b) where such asset is sold without having been used for other purposes, the sale proceeds shall be taken to be the value of the asset immediately before the cessation, and if an additional allowance or a greater additional allowance would have been made in respect of the previous year in which the cessation occurred on the basis of that value, an amount equal to the additional allowance which would have been made or, as the case may be, to the difference between the additional allowance which would have been made and the additional allowance which was made for that year shall be made in respect of the previous year in which the sale occurs,
- (c) where the proceeds of the sale plus the total amount of the allowances made under this clause exceed the amount of the expenditure, the excess or the amount of the allowances so made, whichever is the less, shall be treated as a receipt of the business accruing at the time of the sale,
- (d) where a deduction is allowed for any previous year under this clause in respect of expenditure represented wholly or partly by any asset, no deduction shall be allowed under clause (vi) or clause (vii) for the same previous year in respect of that asset,
- (e) where an asset is used in the business after it ceases to be used for scientific research related to that business, and a claim for an allowance under clause (vi) or clause (vii) is made in respect of that asset, the actual cost to the assessee of the asset shall be treated as reduced by the amount of any deductions allowed under this clause,

- (f) clause (b) of the proviso to clause (vi) shall apply in Div relation to deductions allowable under this clause as it S 10 applies in relation to deductions allowable in respect of depreciation,
- (g) if any question arises under clause (xi), clause (xii) or (R this clause as to whether, and if so to what extent, any activity constitutes or constituted or any asset is or was being used for scientific research, the Central Board of Revenue shall refer the question to the prescribed authority, whose decision shall be final,

*Explanation*—In clause (xi), clause (xii) and this clause—

- (i) "scientific research" means any activities in the fields of natural or applied science for the extension of knowledge,
- (ii) references to expenditure incurred on scientific research do not include any expenditure incurred in the acquisition of rights in, or arising out of, scientific research, but, save as aforesaid, include all expenditure incurred for the prosecution of, or the provision of facilities for the prosecution of, scientific research,
- (iii) references to scientific research related to a business or class of business include—
  - (a) any scientific research which may lead to or facilitate an extension of that business or, as the case may be, all businesses of that class,
  - (b) any scientific research of a medical nature which has a special relation to the welfare of workers employed in that business or, as the case may be, businesses of that class,

<sup>25</sup>[(xiv a) in respect of any special reserve created by a financial corporation which is engaged in providing long term finance for industrial development in India, an amount not exceeding ten per cent of the total income carried to such reserve account

Provided that the corporation is for the time being approved by the Central Government for the purposes of this clause

Provided further that where the aggregate of the amounts carried to such reserve account from time to time exceeds the paid-up share capital (excluding the amounts capitalised from reserves) of the corporation no allowance under this clause shall be made in respect of such excess,]

<sup>1</sup>[(xv)] any expenditure <sup>2</sup>[(<sup>3</sup>[not being an allowance of the nature described in any of the clauses (i) to (xv) inclusive, and] not being in the nature of capital expenditure or personal

<sup>25</sup> Inserted by s 6 of the Finance Act, 1961, with effect from the 1st April, 1961

<sup>1</sup> The original cl (ix), renumbered "(xi)" by s 11 of the Indian I T (Amendment) Act, 1939 (7 of 1939), was further renumbered "(xv)" by s 3 of the Indian I T (Amendment) Act, 1946 (8 of 1946)

<sup>2</sup> Substituted for "(not being in the nature of capital expenditure) incurred solely for the purpose of earning such profits or gains", *ibid* (7 of 1939)

<sup>3</sup> Inserted by s 8 of the Indian I T (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952



expenses of the assessee) laid out or expended wholly and exclusively for the purpose of such business, profession or vocation]

\* \* \* \* \*

“(Provided that in the case of a company, no expenditure in the nature of entertainment expenditure shall be allowed which exceeds the aggregate amount computed as hereunder —

- |                                                                                                                                                                            |                                                    |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------|
| (i) on the first Rs 10,00,000 of the profits and gains of the business (computed before making any allowance under clause (ii) or in respect of entertainment expenditure) | at the rate of 1% or Rs 5,000 whichever is higher, |
| (ii) on the next Rs 40,00,000 of the profits and gains of the business (computed in the manner aforesaid)                                                                  | at the rate of $\frac{3}{4}\%$ ,                   |
| (iii) on the next Rs 1,20,00,000 of the profits and gains of the business (computed in the manner aforesaid)                                                               | at the rate of $\frac{1}{2}\%$ ,                   |
| (iv) on the balance of the profits and gains of the business (computed in the manner aforesaid)                                                                            | nil ]                                              |

“(2A) Where for the purpose of computing profits or gains under this section, an allowance or deduction has been made in the assessment for any year in respect of any loss, expenditure or trading liability incurred by the assessee and, subsequently during any previous year, the assessee has received, whether in cash or in any other manner whatsoever, any amount in respect of such loss or expenditure or has obtained some benefit in respect of such trading liability by way of remission or cessation thereof, the amount received by him or the value of the benefit accruing to him shall be deemed to be profits and gains of business, profession or vocation and to have accrued or arisen during that previous year ]

“(2AA) For the purpose of computing the profits or gains of any business consisting of the prospecting for or extraction or production of mineral oils in relation to which the Central Government has entered into an agreement with any person for the association or participation in such business of the Central Government (which agreement has been laid on the Table of each House of Parliament), there shall be made in lieu of, or in addition to, the allowances admissible under sub section (2), such allowances as are specified in the agreement in relation—

- (a) to expenditure by way of infructuous or abortive exploration expenses in respect of any area surrendered prior to the beginning of commercial production by the assessee,

<sup>4</sup> The proviso was omitted by s 11 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>5</sup> Inserted by s 6 of the Finance Act 1961 with effect from the 1st April, 1961

<sup>6</sup> Inserted by s 8 of the Finance Act, 1955, with effect from the 1st April, 1955

<sup>7</sup> Inserted by s 4 of the Finance Act, 1959, with effect from the 1st April, 1959

- (b) after the beginning of commercial production, to expenditure incurred by the assessee, whether before or after such commercial production, in respect of drilling or exploration activities or services or in respect of physical assets used in that connection except assets on which allowance for depreciation is admissible under sub-section (2), and
- (c) to the depletion of mineral oil in the mining area in respect of the assessment year relevant to the previous year in which commercial production is begun and for such succeeding year or years as may be specified in the agreement,

and such allowances shall be computed and made in the manner specified in the agreement, the other provisions of this Act being deemed for this purpose to have been modified to the extent necessary to give effect to the terms of the agreement ]

(2B) 8\* \* \*

(2C) 8\* \* \*

<sup>9</sup>[(3) Where any building, machinery, plant or furniture in respect of which any allowance is due under clause (iv), clause (v), clause (vi) or clause (vii) of sub section (2) is not wholly used for the purposes of the business, profession or vocation, the allowance shall be restricted to the fair proportional part of the amount which would be allowable if such building, machinery, plant or furniture was wholly so used

(4) Nothing in clause (12) or <sup>10</sup>[clause (xv)] of sub-section (2) shall be deemed to authorise the allowance of any sum paid on account of any cess, rate or tax levied on the profits or gains of any business, profession or vocation or assessed at a proportion of or otherwise on the basis of any such profits or gains, and nothing in <sup>10</sup>[clause (xv)] of sub section (2) shall be deemed to authorise—

- (a) any allowance in respect of a payment which is chargeable under the head "Salaries" if it is payable without <sup>11</sup>[the taxable territories] and tax has not been paid thereon nor deducted therefrom under section 18, or
- (b) any allowance in respect of any payment by way of interest, salary, commission or remuneration made by a firm to and partner of the firm, or
- (c) any allowance in respect of a payment to a provident or other fund established for the benefit of employees unless the employer has made effective arrangements to secure that tax shall be deducted at source from any payments made from the fund which are taxable under the head "Salaries "

<sup>12</sup>[(4A) Nothing in sub-section (2) shall, in the computation of the profits and gains of a company, be deemed to authorise the making of—

\* Inserted by s 3 of the Finance (No 3) Act, 1956, and substituted by s 4 of the Finance (No 2) Act, 1957, with effect from the 1st April, 1957, and omitted by s 4 of the Finance Act, 1959, with effect from the 1st April, 1959

<sup>9</sup> Sub secs (3), (4), (5), (6) and (7) were substituted for the original sub sec (3) by s 11 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>10</sup> Substituted for "clause (xv)" by s 4 of the Repealing and Amending Act, 1947 (2 of 1948)

<sup>11</sup> Substituted for "British India" by the Adaptation of Laws Order, 1950

<sup>12</sup> Inserted by s 7 of the Finance Act, 1956, with effect from the 1st April, 1956

- (a) any allowance in respect of any expenditure which results directly or indirectly in the provision of any remuneration or benefit or amenity to a director or a person who has a substantial interest in the company within the meaning of sub clause (iii) of clause (6C) of section 2, or
- (b) any allowance in respect of any assets of the company used by any person referred to in clause (a) either wholly or partly for his own purposes or benefit,

if in the opinion of the Income tax Officer any such allowance is excessive or unreasonable having regard to the legitimate business needs of the company and the benefit derived by or accruing to it therefrom

*Explanation*—The provisions of this sub section shall apply notwithstanding that any amount disallowed under this sub section is included in total income of any person referred to in clause (a) ]

<sup>13</sup>[(4B) Nothing in clause (vi) or clause (vi a) of sub section (2) shall be deemed to authorise the allowance for any previous year of any sum in respect of any building, machinery, plant or furniture sold, discarded, demolished or destroyed in that year ]

(5) In sub section (2), "paid" means actually paid or incurred according to the method of accounting upon the basis of which the profits or gains are computed under this section, "plant" includes vehicles, books, scientific apparatus and surgical equipment purchased for the purposes of the business, profession or vocation, and "written down value" means—

- (a) in the case of assets acquired in the previous year, the actual cost to the assessee

<sup>14</sup>[Provided that where, before the date of acquisition by the assessee, the assets were at any time used by any other person for the purposes of his business and the Income-tax Officer is satisfied that the main purpose of the transfer of such assets, directly or indirectly, to the assessee was the reduction of a liability to income-tax (by claiming depreciation with reference to an enhanced cost), the actual cost to the assessee shall be such an amount as the Income tax Officer may, with the previous approval of the Inspecting Assistant Commissioner, determine having regard to all the circumstances of the case ]

<sup>15</sup>[Provided further that where before the date of acquisition by the assessee, the assets, which belonged to the assessee and had been used by him for the purposes of his business, profession or vocation, had ceased to be his property by reason of transfer or otherwise, the actual cost to the assessee shall be the actual cost to him when he first acquired the assets less all depreciation actually allowed to him under the Act or under any Act repealed hereby or under executive orders issued when the Indian Income-tax Act, 1886 (II of 1886), was in force,]

<sup>13</sup> The sub-section was inserted by s 7 of the Finance Act, 1958, and shall be deemed always to have been in the Act

<sup>14</sup> Inserted by s 11 of the Taxation Laws (Extension to Merged States and Amendment) Act, 1949 (67 of 1949)

<sup>15</sup> Inserted by s 8 of the Finance Act 1955 The amendment is not only effective as from the 1st April, 1955, but also applies to all assessments for any earlier year whether such assessments have been completed or not (See s 20 of the Finance Act, 1955 )

<sup>16</sup>[(b) in the case of assets acquired before the previous year the actual cost to the assessee less all depreciation actually allowed to him under this Act, or any Act repealed thereby, or under executive orders issued when the Indian Income-tax Act, 1886 (II of 1886), was in force ] S

<sup>17</sup>[Provided that in the case of a building previously the property of the assessee and brought into use for the purposes of the business, profession or vocation after the 28th day of February, 1946, "written down value" means the actual cost to the assessee reduced by an amount equal to the depreciation calculated at the rate in force on that date that would have been allowable had the building been used for the aforesaid purposes since the date of its acquisition by the assessee and had the provisions of this Act relating to the allowance for depreciation been in force on and from the date of acquisition ]

Provided <sup>17</sup>[further] that where the provisions of the proviso to sub-section (2) of section 26 are applicable, the actual cost to the assessee referred to in <sup>18</sup>[clauses (a) and (b)] shall be the actual cost to the person succeeded in the business, profession or vocation,

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<sup>19</sup>[(c) in the case of assets acquired by the assessee by way of gift or inheritance, the "written down-value" as in the case of the previous owner or the market value thereof whichever is the less ]

<sup>19</sup>[*Explanation* —For the purposes of this sub section, the expression "actual cost" means the actual cost of the assets to the assessee reduced by that portion of the cost thereof, if any, as has been met directly or indirectly by Government or by any public or local authority, and any allowance in respect of any depreciation carried forward under clause (b) of the proviso to clause (vi) of sub-section (2) shall be deemed to be depreciation "actually allowed" ]

<sup>20</sup>[(5A) Any compensation or other payment due to or received by,—

- (a) a managing agent of an Indian company at or in connection with the termination or modification of his managing agency agreement with the company,
- (b) a manager of an Indian company at or in connection with the termination of his office or modification of the terms and conditions relating thereto,
- (c) any person, by whatever name called, managing the whole or substantially the whole affairs of any other company in the taxable territories, at or in connection with the termination of his office or the modification of the terms and conditions relating thereto,
- (d) any person, by whatever name called, holding an agency in the taxable territories for any part of the activities relating to the

<sup>16</sup> Substituted for cls (b) and (c) by s 6 of the Indian I T (Amendment) Act, 1941 (23 of 1941) Effect shall not be given to this amendment in the making of any assessment for any year before the year ending 31st March, 1943

<sup>17</sup> Inserted by s 3 of the Indian I T (Amendment) Act, 1946 (8 of 1946)

<sup>18</sup> "Clauses (a) and (b)" was substituted for "clauses (a), (b) and (c)" and the next proviso was omitted by s 6 of the Indian I T (Amendment) Act, 1941 (23 of 1941) Effect shall not be given to these amendments in the making of any assessment for any year before the year ending 31st March, 1943

<sup>19</sup> Inserted by s 8 of the Indian I T (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952

<sup>20</sup> Inserted by s 8 of the Finance Act, 1955, with effect from the 1st April, 1955

business of any other person, at or in connection with the termination of his agency or the modification of the terms and conditions relating thereto,

shall be deemed to be profits and gains of a business carried on by the managing agent, manager or other person, as the case may be, and shall be liable to tax accordingly, and the tax on such compensation or other payment shall, if the assessee so elects, be computed at the average of the rates of income-tax and super-tax applicable to his total income for the three years immediately preceding the previous year in which the compensation or other payment was due or received ]

(6) A trade, professional or similar association performing specific services for its members for remuneration definitely related to those services shall be deemed for the purpose of this section to carry on business in respect of those services, and the profits and gains therefrom shall be liable to tax accordingly

(7) Notwithstanding anything to the contrary contained in sections 8, 9, 10, 12 or 18, the profits and gains of any business of insurance and the tax payable thereon shall be computed in accordance with the rules contained in the Schedule to this Act ]

**11 Professional earnings**—*Omitted by s 12 of the Indian Income-tax (Amendment) Act, 1939 (VII of 1939)*

**12 Other sources**—(1) The tax shall be payable by an assessee under the head <sup>21</sup>["Income from other sources"] in respect of income, profits and gains of every kind <sup>22</sup>[which may be included in his total income] (if not included under any of the preceding heads)

<sup>23</sup><sup>24</sup>[(1A) Income from other sources shall include dividends, and any dividend declared by a company or distributed or paid by it within the meaning of sub clause (a) or sub clause (b) or sub clause (c) or sub clause (d) or sub clause (e) of clause (6A) of section 2, shall be deemed to be the income of the previous year in which it is so declared, distributed or paid, as the case may be ]

(1B) Any payment by a company to a shareholder by way of advance or loan which would have been treated as a dividend within the meaning of clause (e) of sub section (6A) of section 2 in any previous year relevant to any assessment year prior to the assessment year ending on the 31st day of March, 1956, had that clause been in force in that year, shall be treated as a dividend received by him in the previous year relevant to the assessment year ending on the 31st day of March, 1956, if such loan or advance remained outstanding on the first day of such previous year ]

(2) Such income, profits and gains shall be computed after making allowance for any expenditure (not being in the nature of capital expenditure) incurred solely for the purpose of making or earning such income,

<sup>21</sup> Substituted for "Other sources" by s 13 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>22</sup> Substituted for "and from every source to which this Act applies", *ibid*

<sup>23</sup> Inserted by s 9 of the Finance Act, 1955, with effect from the 1st April, 1955

<sup>24</sup> Substituted by s 5 of the Finance Act, 1959, with effect from the 1st April 1960. However, in relation to dividends declared or payable by a company on or before the 30th June, 1960, in respect of any previous year relevant to any assessment year prior to the assessment year 1960-61, the Income tax Act shall have effect as if the substitution had not been made and in relation to dividends declared or payable by a company in respect of the previous year relevant to the assessment year 1960-61 the substitution shall have effect on and from the 1st April, 1959 (See s 3 of the Finance Act, 1960 )

profits or gains, <sup>25</sup>[and further in the case of any income by way of dividend, for any reasonable sum paid by way of commission or remuneration to a banker or any other person realising such dividend on behalf of the assessee,] Ss 12-17  
<sup>1</sup>[provided that no allowance shall be made on account of—

- (a) any personal expenses of the assessee, or
- (b) any interest chargeable under this Act which is payable without <sup>2</sup>[the taxable territories], not being interest on a loan issued for public subscription before the 1st day of April, 1938, or not being interest on which tax has been paid or from which tax has been deducted under section 18, or
- (c) any payment which is chargeable under the head "Salaries", if it is payable without <sup>2</sup>[the taxable territories] and tax has not been paid thereon nor deducted therefrom under section 18 ]

<sup>3</sup>[(3) Where an assessee lets on hire machinery, plant or furniture belonging to him, he shall be entitled to allowances in accordance with the provisions of clauses (iv), (v), (vi) and (vii) of sub-section (2) of section 10 ]

<sup>4</sup>[(4) Where an assessee lets on hire machinery, plant or furniture belonging to him and also buildings, and the letting of the buildings is inseparable from the letting of the said machinery, plant or furniture, he shall be entitled to allowances in accordance with the provisions of clauses (iv), <sup>5</sup>[(v), (vi) and (vii)] of sub-section (2) of section 10 in respect of such buildings.]

<sup>6</sup>[(5) The provisions of <sup>7</sup>[sub-sections (2A) and (4A)] of section 10 shall apply, so far as may be, in computing income, profits and gains of an assessee under this section as they apply in computing profits or gains of an assessee under that section ]

<sup>8</sup>[12A Managing agency commission—Where a managing agent of a company is liable under an agreement made for adequate consideration to share managing agency commission with a third party or parties, the said agent and the said party or parties shall file a declaration showing the proportion in which such commission is shared between them, and on proof to the satisfaction of the Income-tax Officer of the facts contained in such declaration such agent and each such party shall be chargeable only on the share to which such agent or party is entitled under the agreement ]

<sup>9</sup>[12AA Royalties or copyright fees for literary or artistic works—Where the time taken by the author of a literary or artistic work in the making thereof is—

- (a) more than twelve but less than twenty-four months, or

<sup>25</sup> Inserted by s 9 of the Finance Act, 1955, with effect from the 1st April, 1955

<sup>1</sup> Substituted for "provided that no allowance shall be made on account of any personal expenses of the assessee" by s 13 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>2</sup> Substituted for "British India" by the Adaptation of Laws Order, 1950

<sup>3</sup> Inserted by s 13 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>4</sup> Inserted by s 7 of the Indian I T (Amendment) Act, 1941 (23 of 1941) Effect is not to be given to this amendment in the making of any assessment for any year before the year ending 31st March, 1943

<sup>5</sup> Substituted for "(v) and (vi)" by s 4 of the Indian I T (Amendment) Act, 1946 (8 of 1946)

<sup>6</sup> Inserted by s 9 of the Finance Act, 1955, with effect from the 1st April, 1955

<sup>7</sup> Substituted for "sub section (2A)" by s 8 of the Finance Act, 1956, with effect from the 1st April, 1956

<sup>8</sup> Inserted by s 14 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>9</sup> Inserted by s 3 of the Finance Act, 1953 (14 of 1953), with effect from the 1st April, 1953

(b) more than twenty-four months,

the amount received or receivable by him during any previous year on account of any lump sum consideration for the assignment or grant of any of his interests in the copyright of that work or of royalties or copyright fees (whether receivable in lump sum or otherwise), in respect of that work, shall, if he so claims, be allocated for purposes of assessment as hereunder—

- (i) in the case referred to in clause (a), one half of the amount of such lump sum, royalties or fees as the income of the previous year in which the whole amount is received or receivable, and the other half as the income of the next succeeding previous year, and
- (ii) in the case referred to in clause (b), one-third of the amount of such lump sum, royalties or fees as the income of the previous year in which the whole amount is received or receivable, and one-third of the said amount as the income of each of the two next succeeding previous years

*Explanation*—For the purposes of this section, the expression “author” includes a joint author and the expression “lump sum” in regard to royalties or copyright fees includes an advance payment on account of such royalties or copyright fees which is not returnable]

<sup>10</sup>[12B Capital gains—(1) The tax shall be payable by an assessee under the head “Capital gains” in respect of any profits or gains arising from the sale, exchange, relinquishment or transfer of a capital asset effected after the 31st day of March, 1956, and such profits and gains shall be deemed to be income of the previous year in which the sale, exchange, relinquishment or transfer took place

Provided that any distribution of capital assets on the total or partial partition of a Hindu undivided family or under a deed of gift, bequest or will shall not for the purposes of this section be treated as a sale, exchange, relinquishment or transfer of the capital assets

Provided further that the transfer of a capital asset by a company to a subsidiary company, the whole of the share capital of which is held by the parent company or by the nominees thereof, shall not be treated as a sale, exchange or transfer within the meaning of this section where the subsidiary company is resident in the taxable territories and is registered under the Indian Companies Act, 1956, so however that for the purposes of clause (vi) or clause (vii) of sub section (2) of section 10, the cost or the written down value as the case may be, of the transferred capital asset shall be taken to be the same as it would have been if the parent company had continued to hold the capital asset for the purposes of its business

(2) The amount of a capital gain shall be computed after making the following deductions from the full value of the consideration for which the sale, exchange, relinquishment or transfer of the capital asset is made, namely—

- (i) expenditure incurred solely in connection with such sale, exchange, relinquishment or transfer,
- (ii) the actual cost to the assessee of the capital asset, including any expenditure of a capital nature incurred and borne by him in making any additions or alterations thereto, but excluding any

<sup>10</sup> Inserted by 6 of the Indian IT and EPT (Amendment) Act 1947 (22 of 1947), and substituted by 4 of the Finance (No. 2) Act, 1956 with effect from the 1st April, 1957

expenditure in respect of which any allowance is admissible under any provision of sections 8, 9, 10 and 12 Div  
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Provided that where a person who acquires a capital asset from the assessee, whether by sale, exchange, relinquishment or transfer, is a person with whom the assessee is directly or indirectly connected, and the Income-tax Officer has reason to believe that the sale, exchange, relinquishment or transfer was effected with the object of avoidance or reduction of the liability of the assessee under this section, the full value of the consideration for which the sale, exchange, relinquishment or transfer is made shall, with the prior approval of the Inspecting Assistant Commissioner of Income-tax, be taken to be the fair market value of the capital asset on the date on which the sale, exchange, relinquishment or transfer took place

Provided further that where the capital asset is an asset in respect of which the assessee has obtained depreciation allowance in any year, the actual cost of the asset to the assessee shall be its written down value, as defined in section 10, increased or diminished, as the case may be, by any adjustment made under clause (vi) of sub-section (2) of that section

Provided further that where the capital asset became the property of the assessee, or of the previous owner where the cost of the capital asset to the previous owner is to be taken in accordance with sub-section (3), before the 1st day of January, 1954, he may, on proof of the fair market value thereof on the said date to the satisfaction of the Income-tax Officer, substitute for the actual cost such fair market value which shall be deemed to be the actual cost to him of the asset, and which shall be reduced by the amount of depreciation, if any, allowed to the assessee after the said date and increased or diminished, as the case may be, by any adjustment made under clause (vi) of sub-section (2) of section 10

Provided further that where the capital asset was on any previous occasion the subject of negotiations for its sale, exchange, relinquishment or transfer, any option or other money received and retained by the assessee in respect of such negotiations shall be deducted in computing the actual cost to him of such asset

(3) Where any capital asset became the property of the assessee by succession, inheritance or devolution or on any distribution of capital assets on the total or partial partition of a Hindu undivided family or on the dissolution of a firm or other association of persons or on the liquidation of a company or under a deed of gift, or transfer on irrevocable trust, its actual cost allowable to him for the purposes of this section shall be its actual cost to the previous owner thereof, and the provisions of sub-section (2) shall apply accordingly, and where the actual cost to the previous owner cannot be ascertained, the fair market value at the date on which the capital asset became the property of the previous owner shall be deemed to be the actual cost thereof

Provided that where the capital asset became the property of the assessee—

- (i) before the 1st day of April, 1956, under a deed of gift or on the partition of a Hindu undivided family, the actual cost allowable to him shall be the fair market value of the capital asset on the date of the gift or the date of the partition, as the case may be, if such value is greater than the actual cost to the previous owner or the fair market value thereof on the 1st day of January, 1954, where the third proviso to sub-section (2) applies,



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(11) on or after the 1st day of April, 1956, on the partition of a Hindu undivided family, the cost allowable to him shall be the fair market value on the date of the partition

(4) Notwithstanding anything contained in sub-section (1)—

(a) where a capital gain arises from the sale, exchange or transfer of one or more capital assets being property the income of which is chargeable under section 9, and the full aggregate value of the consideration for which the sale, exchange or transfer is made does not exceed the sum of twenty-five thousand rupees, the capital gain shall not be charged under this section and shall not also be included in the total income of the assessee

Provided that this clause shall not apply in any case where the aggregate of the fair market values of all capital assets, being property the income of which is chargeable under section 9, owned by the assessee immediately before the sale, exchange or transfer aforesaid is made, exceeds the sum of rupees fifty thousand

(b) where a capital gain arises from the sale, exchange, relinquishment or transfer of a capital asset to which the provisions of clause (a) are not applicable, being property the income of which is chargeable under section 9, which in the two years immediately preceding the date on which the sale, exchange, relinquishment or transfer took place, was being used by the assessee or a parent of his mainly for the purposes of his own or the parent's own residence, and the assessee has within a period of one year before or after that date purchased a new property for the purposes of his own residence, then instead of the capital gain being charged to tax as income of the previous year in which the sale, exchange, relinquishment or transfer took place, it shall, if the assessee so elects in writing before the assessment is made, be dealt with in accordance with the following provisions of this clause, that is to say,—

(i) if the amount of the capital gain is greater than the cost of the new asset, the difference between the amount of the capital gain and the cost of the new asset shall be charged under this section as income of the previous year, or

(ii) if the amount of the capital gain is equal to or less than the cost of the new asset, the capital gain shall not be charged under this section ]

13 Method of accounting—Income, profits and gains shall be computed, for the purposes of sections 10 <sup>11</sup> and 12, in accordance with the method of accounting regularly employed by the assessee

Provided that, if no method of accounting has been regularly employed, or if the method employed is such that, in the opinion of the Income-tax Officer, the income, profits and gains cannot properly be deduced therefrom, then the computation shall be made upon such basis and in such manner as the Income-tax Officer may determine

14 Exemptions of a general nature—(1) The tax shall not be payable by an assessee in respect of any sum which he receives as a member of a Hindu undivided family <sup>12</sup>[where such sum has been paid out of the

<sup>11</sup> "11" omitted by s. 15 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>12</sup> Inserted by s. 3 of the Indian I T (Amendment) Act, 1944 (11 of 1944)

income of the family] <sup>13</sup>[or in the case of an impartible estate where such sum has been paid out of the income of the holder of the estate belonging to the family ] Div 1  
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<sup>14</sup>[(2) The tax shall not be payable by an assessee—

(a) if a partner of an unregistered firm, in respect of any portion of his share in the profits and gains of the firm computed in the manner laid down in clause (b) of sub-section (1) of section 16 on which the tax has already been paid by the firm, or

<sup>15</sup>[(aa) if a partner of a registered firm, in respect of that portion of his share in the profits or gains of the firm as is equal to the difference between his share in the total income of the firm and his share in such total income excluding the income tax, if any, payable by the firm, the shares in either case being computed in the manner laid down in clause (b) of sub-section (1) of section 16

Provided that in relation to super-tax the provisions of this clause shall have effect as if for the words "excluding the income-tax, if any, payable by the firm" the words "excluding the income-tax, if any, payable by the firm, at the rate of income-tax applicable to its total income, on the amount of its profits or gains from all sources other than from any business carried on by it" had been substituted,]

(b) if a member of an association of persons other than a Hindu undivided family, a company or a firm, in respect of any portion of the amount which he is entitled to receive from the association on which the tax has already been paid by the association

(c) 16\* \* \* \* \*

<sup>17</sup><sup>18</sup>[(3) The tax shall not be payable by a co operative society—

(i) in respect of its profits and gains of business carried on by it, if it is—

(a) a society engaged in carrying on the business of banking or providing credit facilities to its members, or

(b) a society engaged in a cottage industry, or

(c) a society engaged in the marketing of the agricultural produce of its members, or

(d) a society engaged in the purchase of agricultural implements, seeds, live-stock or other articles intended for agriculture for the purpose of supplying them to its members, or

(e) a society engaged in the processing without the aid of power of the agricultural produce of its members, or

(f) a primary society engaged in supplying milk raised by its members to a federal milk co-operative society

<sup>13</sup> Inserted by s 6 of the I T and B P T (Amendment) Act, 1948 (48 of 1948), with effect from the 30th March, 1948

<sup>14</sup> Substituted by s 16 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>15</sup> Inserted by s 9 of the Finance Act, 1956, with effect from the 1st April, 1956

<sup>16</sup> "Or" and cl (c) omitted by s 2 and Schedule of the Taxation Laws (Extension to Jammu and Kashmir) Act, 1954 (41 of 1954)

<sup>17</sup> Inserted by s 10 of the Finance Act 1955, with effect from the 1st April, 1955

<sup>18</sup> Substituted by s 6 of the Finance Act, 1960, with effect from the 1st April, 1960

Provided that, in the case of a co operative society which is also engaged in activities other than those mentioned in this clause, nothing contained herein shall apply to that part of its profits and gains as is attributable to such activities and as exceeds fifteen thousand rupees,

- (ii) in respect of so much of its profits and gains of business carried on by it as does not exceed fifteen thousand rupees, if it is a co operative society other than a co operative society referred to in clause (i),
- (iii) in respect of interest and dividends derived from its investments with any other co operative society,
- (iv) in respect of any income derived from the letting of godowns or warehouses for storage, processing or facilitating the marketing of commodities,
- (v) in respect of any interest on securities chargeable under section 8 or any income from property chargeable under section 9, where the total income of the co-operative society does not exceed twenty thousand rupees and the society is not a housing society or an urban consumer's society or a society carrying on transport business or a society engaged in the performance of any manufacturing operations with the aid of power

Provided that nothing contained in this sub section shall apply to—

- (i) the Sanikatta Salt Owners' Society,
- (ii) a co operative society carrying on insurance business in respect of the profits and gains of that business computed in accordance with rule 9 in the Schedule

*Explanation*—For the purposes of this sub section, an "urban consumer's co operative society" means a society for the benefit of the consumers within the limits of a municipal corporation, municipality, municipal committee, notified area committee, town area or cantonment ]

(4) The tax shall not be payable by an assessee, who is a member of a co operative society, in respect of any dividends received by him from the society

(5) The tax shall not be payable by an assessee, which is an authority constituted under any law for the time being in force for the marketing of commodities, in respect of any income derived from the letting of godowns or warehouses for storage, processing or facilitating the marketing of commodities ]

**15 Exemption in the case of life insurances**—(1) The tax shall not be payable<sup>19</sup> [in respect of any sums paid by an assessee to effect an insurance on the life of the assessee or on the life of a wife or husband of the assessee or in respect of a contract for a deferred annuity on the life of the assessee or on the life of a wife or husband of the assessee], or as a contribution to any Provident Fund to which the Provident Funds Act,<sup>20</sup> [1925 (XIX of 1925)], applies<sup>21\*</sup> \* \*

(2) Where the assessee is a Hindu undivided family, there shall be exempted under sub-section (1) any sums paid to effect an insurance on

<sup>19</sup> Substituted by s. 17 of the Indian I T (Amendment) Act, 1939 (7 of 1939)

<sup>20</sup> Substituted for "1897" and

<sup>21</sup> Or to any Provident Fund which complies with the provisions of the Provident Insurance Societies Act, 1912 or has been exempted from the provisions of that Act "substituted by s. 5 of the Indian I T (Amendment) Act, 1921 (11 of 1924)

the life of any male member of the family or of the wife of any such member

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<sup>22</sup>[(2A) Nothing in sub-section (1) or sub-section (2) shall apply to so much of any premium or other payment made on a policy other than a contract for a deferred annuity as is in excess of ten per cent of the actual capital sum assured, and in calculating any such capital sum no account shall be taken of the value of any premiums agreed to be returned or of any benefit by way of bonus or otherwise which is to be or may be received either before or after death either by the person paying the premium or by any other person and which is not the sum actually assured ]

(3) The aggregate of any sums exempted under this section shall not, together with any sums exempted under the <sup>23</sup>[first proviso] to sub section (1) of section 7 <sup>24</sup>[and any sums exempted under <sup>25</sup>[section 58F]], <sup>1</sup>[exceed in the case of an individual, <sup>2</sup>[one-fourth] of the total income of the assessee or eight thousand rupees, whichever is less, and in the case of a Hindu undivided family, <sup>2</sup>[one-fourth] of the total income of the assessee or sixteen thousand rupees, whichever is less]

<sup>3</sup>[15A Exemption of portion of earned income—The tax shall not be payable by an assessee in respect of such portion, if any, of the earned income included in his total income as is directed by the annual <sup>4</sup>[Central Act] fixing the rate or rates of tax for any year to be deducted in making an assessment for that year, and for the purposes of determining the rates at which income-tax (but not super-tax) is payable by the assessee for that year his total income shall be deemed to be the total income reduced by the said portion ]

<sup>5</sup>[15B Exemption on account of donations for charitable purposes—<sup>6</sup>[(1) The tax shall not be payable by an assessee in respect of any sums paid by him on or after the 1st day of April, 1953, as donations to any institution or fund to which this section applies <sup>7</sup>[or in respect of any sums paid by him on or after the 1st day of April, 1960, as donations to the Government or to any local authority to be utilised for any charitable purpose as defined in sub-section (3) of section 4]

Provided that in the case of a company this exemption shall apply only in respect of income-tax and not in respect of super-tax payable by it

Provided further that this exemption shall not apply—

<sup>22</sup> Inserted by s 4 of the Indian I T (Amendment) Act, 1944 (11 of 1944)

<sup>23</sup> Substituted for "second proviso" by s 10 of the Finance Act, 1956, with effect from the 1st April, 1956

<sup>24</sup> Inserted by s 3 of the Indian I T (Provident Funds Relief) Act, 1929 (12 of 1929)

<sup>25</sup> Substituted for "sub section (1) of Section 58F" by s 5 of the Finance (No 2) Act, 1957, with effect from the 1st April, 1957

<sup>1</sup> Substituted for "exceed in the case of an individual, one sixth of the total income of the assessee or six thousand rupees, whichever is less, and in the case of a Hindu undivided family, one sixth of the total income of the assessee or twelve thousand rupees, whichever is less" by s 11 of the Finance Act, 1955, with effect from the 1st April, 1955

<sup>2</sup> Substituted for "one fifth" by s 5 of the Finance (No 2) Act, 1957, with effect from the 1st April, 1957

<sup>3</sup> Inserted by s 3 of Ordinance No 9 of 1945

<sup>4</sup> Substituted for "Act of the Central Legislature" by the Adaptation of Laws Order, 1950

<sup>5</sup> Inserted by s 8 of the Indian Finance Act, 1948 (20 of 1948)

<sup>6</sup> Substituted by s 3 of the Finance Act, 1953 (14 of 1953), with effect from the 1st April, 1953

<sup>7</sup> Inserted by s 5 of the Taxation Laws (Amendment) Act, 1960 (28 of 1960), with effect from the 1st April, 1960

- 1 (a) if the aggregate of the sums so paid by the assessee is less than two hundred and fifty rupees,
- (b) to any sums paid in excess of <sup>8</sup>[seven and a half per cent of the assessee's total income] as reduced by any portion thereof exempt from tax under any other provisions of this Act, or <sup>9</sup>[one hundred and fifty thousand rupees], whichever is less
- (2) This section applies to any institution or fund established in the taxable territories for a charitable purpose—
- (i) the income whereof is exempt under clause (i) of sub section (3) of section 4,
  - (ii) which is not expressed to be for the benefit of any particular religious community,
  - (iii) which maintains regular accounts of its receipts and expenditure, and
  - (iv) which is either constituted as a public charitable trust or is registered under the Societies Registration Act, 1860 (XXI of 1860), or under section 26 of the Indian Companies Act, 1913 (VII of 1913), or is a university established by law or is any other educational institution recognised by Government or by a university or affiliated to any university, or
  - (v) which is an institution financed wholly or in part by the Government or a local authority

*Explanation*—An institution or fund established for the benefit of scheduled castes, backward classes, scheduled tribes or of women and children shall not be deemed to be an institution or fund expressed to be for the benefit of a religious community within the meaning of clause (ii).

(2A) For the removal of doubts, it is hereby declared that in respect of sums paid as donations on or after the 1st day of April, 1948, and before the 1st day of April, 1953, the provisions of sub sections (1) and (2) shall apply as if the amendments made by clause (c) of section 3 of the Finance Act, 1953, had not been made ]

(3) The amount by which the tax payable by an assessee is reduced on account of an exemption under this section shall not in any case exceed half the amount in respect of which the exemption is allowed under this section ]

<sup>10</sup>[15C Exemption from tax of newly established industrial undertakings—(1) Save as otherwise hereinafter provided, the tax shall not be payable by an assessee on so much of the profits or gains derived from any industrial undertaking <sup>11</sup>[or hotel] to which this section applies as do not exceed six per cent per annum on the capital employed in the undertaking <sup>11</sup>[or hotel], computed in accordance with such rules as may be made in this behalf by the Central Board of Revenue

(2) This section applies to any industrial undertaking which—

- (i) is not formed by the splitting up, or the reconstruction of, business already in existence or by the transfer to a new

<sup>8</sup> Substituted for 'one twentieth of the assessee's total income' by s 7 of the Finance Act, 1960, with effect from the 1st April, 1960

<sup>9</sup> Substituted for "one hundred thousand rupees", *ibid*, with effect from the 1st April, 1960

<sup>10</sup> Inserted by s 13 of the Taxation Laws (Extension to Merged States and Amendment) Act 1949 (67 of 1949)

<sup>11</sup> Inserted by s 7 of the Finance Act, 1961, with effect from the 1st April, 1961

business of building, machinery or plant <sup>12</sup>[previously used in any other business], Div. 1  
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(12) has begun or begins to manufacture or produce articles in <sup>13</sup>[any part of the taxable territories] at any time within a period of <sup>14</sup>[eighteen] years from the 1st day of April, 1948, or such further period as the Central Government may, by notification in the Official Gazette, specify with reference to any particular industrial undertaking,

<sup>15</sup>[(111) employs ten or more workers in a manufacturing process carried on with the aid of power, or employs twenty or more workers in a manufacturing process carried on without the aid of power]

Provided that the Central Government may, by notification in the Official Gazette, direct that the exemption conferred by this section shall not apply to any particular industrial undertaking

<sup>16</sup>[(2A) This section applies to any hotel which—

(a) starts functioning on or after the 1st day of April, 1961, and is not formed by the splitting up, or the reconstruction of business already in existence or by the transfer to a new business of building, machinery or plant previously used in any other business,

(b) is owned and run by a company registered in the taxable territories with a paid-up capital of not less than five hundred thousand rupees,

(c) is run in premises which are owned by the company,

(d) has such number and types of guest rooms and provides such amenities as may be prescribed, having regard to the population and the tourist importance of the place in which the hotel is located, and

(e) is for the time being approved for the purposes of this sub-section by the Central Government]

(3) The profits or gains of an industrial undertaking <sup>16</sup>[or a hotel] to which this section applies shall be computed in accordance with the provisions of section 10

(4) The tax shall not be payable by a shareholder in respect of so much of any dividend paid or deemed to be paid to him by an industrial undertaking <sup>16</sup>[or a hotel] as is attributable to that part of the profits or gains on which the tax is not payable under this section

<sup>16</sup>[*Explanation*—The amount of dividend in respect of which the tax is not payable under this sub-section shall be computed in accordance with such rules as may be made in this behalf by the Central Board of Revenue]

<sup>12</sup> These words were substituted for "used in a business which was being carried on before the 1st day of April, 1948", by s 6 of the Finance Act, 1959, and shall be deemed always to have been in the Act

<sup>13</sup> Substituted for "any Province in India" by the Adaptation of Laws Order, 1950

<sup>14</sup> "Six" was substituted for "three" by s 10 of the Indian I T (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952 "Eight" was substituted for "six" by s 3 of the Finance Act, 1954 (17 of 1954), with effect from the 1st April, 1954 "Thirteen" was substituted for "eight" by s 11 of the Finance Act, 1956, with effect from the 1st April, 1956 "Eighteen" was substituted for "thirteen" by s 8 of the Finance Act, 1960, with effect from the 1st April, 1960

<sup>15</sup> Substituted, *ibid* (25 of 1953), with effect from the 1st April, 1952

<sup>16</sup> Inserted by s 7 of the Finance Act, 1961, with effect from the 1st April, 1961